

# Estates Real Estate

Tuesday  
February 8, 1983

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## Selected Subjects

**Administrative Practice and Procedure**  
Federal Maritime Commission

**Agricultural Commodities**  
Agriculture Department

**Air Pollution Control**  
Environmental Protection Agency

**Banks, Banking**  
Federal Reserve System

**Community Development**  
Economic Development Administration

**Conflict of Interests**  
Interior Department

**Food Additives**  
Food and Drug Administration

**Food Ingredients**  
Food and Drug Administration

**Fuel Additives**  
Environmental Protection Agency

**Low and Moderate Income Housing**  
Housing and Urban Development Department

**Medicaid**  
Health Care Financing Administration

**Milk Marketing Orders**  
Agricultural Marketing Service

**Old-Age, Survivors and Disability Insurance**  
Social Security Administration

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# Presidential Documents

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Title 3—

Proclamation 5019 of February 3, 1983.

The President

American Heart Month, 1983

By the President of the United States of America

**A Proclamation**

Diseases of the heart and blood vessels are our Nation's most pressing health problem. Over sixty million Americans are afflicted by one or another of this family of diseases, which cause nearly a million deaths annually, disable many millions of others, and cost the Nation more than \$60 billion each year. The leading killers among the cardiovascular diseases are coronary heart disease and stroke.

In 1948 a newly created Federal agency—now the National Heart, Lung, and Blood Institute—and a private health organization, the American Heart Association, joined hands to combat the cardiovascular diseases. Their combined efforts were directed toward the conquest of these diseases through prevention, diagnosis, and treatment; through the training of new research workers and clinicians in the cardiovascular field; and through support for community service programs.

Until the mid-1960s, mortality from coronary heart disease had continued to increase despite our best efforts; however, in 1965 mortality from heart disease began a steady decline that continues to the present. From 1972 to 1980, mortality rates from coronary heart disease declined by 22.5 percent, and mortality rates from stroke declined by 36.5 percent.

Advances in diagnosis and treatment have been major factors in these reductions. But perhaps equally important, large numbers of Americans have voluntarily modified their habits and lifestyles: many have quit or cut down on cigarette smoking, are watching their weight and blood cholesterol levels, exercising more, and seeking the help of a physician in the control of treatable conditions which increase the risk of premature arteriosclerosis and its consequences.

Though we have made considerable progress in reducing the toll in illness, disability, and death caused by cardiovascular diseases, these diseases continue to be a serious threat to the health and well-being of our citizens. To encourage continued application of what is known about the prevention and relief of cardiovascular diseases and to stimulate the development of new knowledge and techniques that may bring about their ultimate conquest, the Congress has requested that the President annually proclaim February as American Heart Month.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the month of February 1983 as American Heart Month. I invite the Governors of the States, the Commonwealth of Puerto Rico, the officials of other areas subject to the jurisdiction of the United States, and

the American people, to join me in reaffirming our commitment to the resolution of the nationwide problem of cardiovascular disease.

IN WITNESS WHEREOF, I have hereunto set my hand this 3rd day of Feb., in the year of our Lord nineteen hundred and eighty-three, and of the Independence of the United States of America the two hundred and seventh.

*Ronald Reagan*

[FR Doc. 83-3426

Filed 2-4-83; 2:50 pm]

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# Rules and Regulations

Federal Register

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Tuesday, February 8, 1983

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

## DEPARTMENT OF COMMERCE

### Economic Development Administration

#### 13 CFR Part 302

#### Designation of Areas

**AGENCY:** Economic Development Administration (EDA), Commerce.

**ACTION:** Final rule.

**SUMMARY:** 13 CFR 302.51 makes reference to the Deputy Assistant Secretary for Economic Development Planning. Under the present EDA Organizational Structure, the position no longer exists. Therefore, the reference to this position is being removed.

**DATE:** Effective February 8, 1983.

#### FOR FURTHER INFORMATION CONTACT:

Henry C. Kramer, Acting Director Office of Management and Administration, U.S. Department of Commerce, Economic Development Administration, 14th and Constitution Ave., NW., Washington, D.C. 20230, Room 7816, (202) 377-2194.

**SUPPLEMENTARY INFORMATION:** Since this rule relates to EDA's grant and loan programs, it is exempt from the notice and comment procedures described in Section 553 of the Administrative Procedure Act (5 U.S.C. 553.) In accordance with Section 3(c)(3) of Executive Order No. 12291, this rule has been submitted to the Director of the Office of Management and Budget. This rule is not a major rule as defined in that Order. This rule does not fall within the provisions of the Regulatory Flexibility Act, nor will it create any information collection burdens on the public because of its subject matter, so as to be governed by the Paperwork Reduction Act.

## List of Subjects in 13 CFR Part 302

Community development, Designation of areas.

### PART 302—[AMENDED]

Accordingly, 13 CFR Part 302 is amended by revising § 302.51 to read as follows:

#### § 302.51 Lists of redevelopment areas and centers designated under the Act.

The Economic Development Administration will maintain current lists of areas and centers designated under the Act. The lists shall be kept available for public inspection during the regular business hours of the Department of Commerce. Inquiries for such lists shall be made to the Director, Office of Management and Administration, Economic Development Administration, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Room 7816, Washington, D.C. 20230.

(Sec. 701, Pub. L. 89-136, 79 Stat. 570) (42 U.S.C. 3211). Sec. 1-105, E.O. 12185, DOC Organization Order 10-4, as amended (40 FR 56702, as amended)

Dated: November 19, 1982.

Charles W. Warner,  
*Acting Assistant Secretary for Economic Development.*

[FR Doc. 83-3374 Filed 2-7-83; 8:45 am]

BILLING CODE 3510-24-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Social Security Administration

#### 20 CFR Part 404

#### [Regulations No. 4]

#### Federal Old-Age, Survivors, and Disability Insurance Benefits; Limitations on Benefit Payments to Prisoners; Restrictions on Disability Determinations for Felony-Related and Prison-Related Impairments

**AGENCY:** Social Security Administration, HHS.

**ACTION:** Final rule.

**SUMMARY:** These regulations, which are based on Pub. L. 96-473, place certain restrictions on the payment of benefits based on disability and student status to persons who have been convicted of a felony and are imprisoned and restrict

the use of certain impairments in determining disability. These rules specify the conditions under which benefits will not be paid to these individuals and how a finding of disability may be affected when an impairment, or the aggravation of a preexisting impairment, arises during the commission of a felony or imprisonment. Before the enactment of Pub. L. 96-473, there were no restrictions upon the payment of benefits or the making of disability determinations for these persons. We published a Notice of Proposed Rule Making on June 11, 1982 (47 FR 25376). Comments received are discussed in this preamble.

**DATES:** These rules are effective February 8, 1983 but the statutory changes which the regulations reflect are already in effect.

**FOR FURTHER INFORMATION CONTACT:** Dave Smith, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 594-7336.

#### SUPPLEMENTARY INFORMATION:

##### General Background

Section 5 of Pub. L. 96-473 amends sections 202, 216, and 223 of the Social Security Act (the Act) by placing limitations upon the conditions under which a prisoner may receive benefits as a full-time student and benefits based upon disability. The amendments also impose restrictions on making title II disability determinations by eliminating from consideration impairments or aggravations of preexisting impairments which occur during the commission of a felony. In addition, impairments or aggravations of preexisting impairments which arise in connection with confinement upon conviction for a felony cannot be considered for payment of disability benefits during the period of confinement. Before the enactment of Pub. L. 96-473 on October 19, 1980, persons confined to penal institutions for convictions of crimes and convicted criminals in mental institutions could become entitled to social security benefits if they met all the conditions required for benefit payments. Conviction of a crime and confinement at public expense generally did not affect benefit payments under the Act. There were only two exceptions. First, by regulation, a person

convicted of the felonious homicide of an insured person could not receive social security benefits based on the earnings record of that person. Second, under the Act, a person convicted of a subversive crime against the United States, such as espionage, sabotage, treason, and sedition, could be denied social security benefits as a part of a sentence by a judge.

The 1970 census disclosed that there were approximately 4,000 prisoners throughout the United States who were receiving social security benefits. More recent data collected by the General Accounting Office (GAO) provided estimates of approximately 6,000 prisoners receiving these benefits. These figures indicated to Congress that the number of prisoners becoming entitled to social security benefits is increasing. The Senate Committee on Finance expressed its concern in its Report accompanying H.R. 5295, the House of Representatives' bill which was later enacted as Pub. L. 96-473. (Senate Report No. 987, 96th Cong. 2nd Sess. (1980) page 8).

The committee believes that the basic purposes of the social security program are not served by the unrestricted payment of benefits to individuals who are in prison or whose eligibility arises from the commission of a crime. The disability program exists to provide a continuing source of monthly income to those whose earnings are cut off because they have suffered a severe disability. The need for this continuing source of income is clearly absent in the case of an individual who is being maintained at public expense in prison. The basis for his lack of other income in such circumstances must be considered to be marginally related to his impairment at best.

#### Disability Benefits

Consequently, the Act was amended to require the suspension of benefits to disabled workers and children disabled before age 22 who would otherwise be receiving benefits based on disability while imprisoned by reason of a felony conviction. This suspension applies unless the prisoner is participating in a vocational rehabilitation program which has been specifically approved for that prisoner by a court of law. However, benefit payments will continue only as long as the prisoner continues to participate actively and satisfactorily in an approved vocational rehabilitation program which is expected to result in the prisoner being able to do substantial gainful activity upon release and within a reasonable time. The amendments also provide that a person may not be considered to be a full-time student for payment of social security benefits while imprisoned for conviction of a felony. In addition, the amendments to

the Act provide that impairments, to the extent that they arise from or are aggravated during the commission of a felony for which the individual is convicted, may never be considered in determining whether or not the individual qualifies for social security benefits based on disability. An impairment or aggravation not connected with the commission of a felony but occurring while an individual is in prison for conviction of a felony cannot be considered for purposes of benefit payments based on disability as long as the individual remains in prison. However, impairments arising, or aggravations of preexisting impairments occurring, during confinement can be used to establish a period of disability for disabled workers. The Social Security Administration is amending 20 CFR Part 404 to reflect these changes in the law.

#### Student Benefits

We have amended § 404.367 of Subpart D (Old-Age, Disability, Dependents' and Survivors' Insurance Benefits; Period of Disability), by adding a new paragraph (d) to explain that no one will be considered in full-time school attendance for benefit payments while imprisoned for conviction of a felony committed after October 19, 1980. This change is based on section 5(b) of Pub. L. 96-473.

#### Nonpayment of Benefits Based on Disability to Prisoners

We have added a new § 404.468 to Subpart E (Deductions; Reductions; and Nonpayments of Benefits) to explain that if a person is imprisoned for conviction of a felony committed at any time and is entitled to social security benefits on the basis of disability, other than as a widow, widower, or surviving divorced spouse, benefits will not be paid for any month after September 1980, during all or part of which the person is imprisoned. The only exception to the nonpayment of a prisoner's benefit will be if the person is actively and satisfactorily participating in a rehabilitation program which is specifically approved by a court of law for that person and which the Secretary of Health and Human Services expects will result in the person's being able to do substantial gainful work upon release and within a reasonable time.

Although disability benefits are not payable to the prisoner during confinement, payment of benefits will be made, as if the prisoner were still receiving benefits, to family members who are otherwise entitled to benefits as the prisoner's dependents.

Benefits will be restored to the prisoner effective with the first full month after release from prison if he or she is still disabled. This rule is based on section 5(c) of Pub. L. 96-473.

#### Permanent Exclusion of Felony-Related Impairment

We have added a new § 404.1506 to Subpart P (Determining Disability and Blindness) to explain in paragraph (a) that in determining whether a person is under a disability, we will not consider any physical or mental impairment, or any increase in severity (aggravation) of a preexisting impairment, that occurs in connection with the commission of a felony. This rule applies only to felonies committed after October 19, 1980, the date of enactment of Pub. L. 96-473. The person must also have been subsequently convicted of the crime. The impairment, or aggravation, must occur during the commission of the felony in order to be considered to have occurred in connection with the commission of the felony and to be excluded from consideration in determining disability. It is not necessary that there be a causative connection between the commission of the felony and the medical condition, but it must be related to, or associated with, the commission of the offense. Under these circumstances, the impairment or the aggravation of an impairment can never be considered in determining disability, whether or not the person is sentenced to prison. Nor can the impairment, or aggravation, be considered after release from prison after serving a sentence for the crime. This rule is based on section 5(a) of Pub. L. 96-473, and applies in determining disability for workers, children, widows, widowers, and surviving divorced spouses.

#### Impairments Occurring During Confinement

In the new § 404.1506 of Subpart P (Determining Disability and Blindness), we have added paragraph (b) to explain that in determining whether a person is under a disability for purposes of benefit payments, we will not consider any physical or mental impairment, or any increase in severity (aggravation) of a preexisting impairment, that occurs in connection with confinement in a jail, prison, or other penal institution or correctional facility. However, the confinement must be due to the person having been convicted of a felony committed after October 19, 1980, the date of enactment of Pub. L. 96-473. An impairment is considered to have arisen in connection with confinement when it

first occurs during confinement. An impairment that began prior to confinement and then increases in severity during confinement is considered to be aggravated in connection with confinement. Under this rule, the impairment or aggravation is excluded from consideration in determining disability for benefits payable for any month during which the person is imprisoned. However, in the case of a disabled worker, an impairment or aggravation that occurs during confinement can be used to establish a period of disability (disability freeze) while the worker is confined.

A prisoner who, because of this provision, is determined not to be disabled for benefit purposes, may become entitled to benefits based on disability upon release from prison, provided that the person is under a disability at that time. In order to receive these benefits, the person will have to apply for them again after release from prison. Benefits, including benefits for dependents, could begin effective with the first full month the person is no longer confined. This rule is also based on section 5(a) of Pub. L. 96-473 and applies to all benefits based upon disability, including benefits for disabled workers, disabled children, and disabled widows, widowers, and surviving divorced spouses.

We have cross-referred § 404.1577, which defines disability for widows, widowers, and surviving divorced spouses, and § 404.1581, which defines blindness under the law, to the new § 404.1506 to show that the amendments apply to these cases.

#### Felonious Offenses and Confinement

Under section 5 of Pub. L. 96-473, a crime is a felony if it is an offense which constitutes a felony under applicable law. However, some legal jurisdictions, such as the State of New Jersey, The U.S. military under the Uniform Code of Military Justice, and some foreign countries, do not classify any crime as a felony. Both § 404.468(b) and § 404.1506(c) explain that in jurisdictions such as these, an offense punishable by death or imprisonment for a term exceeding one year will be considered a felony for purposes of these regulations. This rule is the same as the definition of felony in 18 U.S.C. Sec. 1(1), the U.S. Criminal Code.

Also, § 404.468(c) and § 404.1506(d) explain that a jail, prison, or other penal institution or correctional facility includes any facility which is under the control and jurisdiction of the agency in charge of the penal system or any facility in which convicted criminals can

be incarcerated. This includes, for example, a mental hospital for the criminally insane which is used as a place for incarcerating convicted criminals, regardless of whether that institution is operated by the correctional authority. These sections also explain that a person under sentence of confinement to any of these facilities is considered "confined" even though he or she is temporarily hospitalized outside the facility or is temporarily or intermittently outside the facility to work, attend school, or for some other reason. However, a prisoner who is released on parole or because his or her sentence has ended, been suspended or overturned would no longer be considered confined in the penal facility. Paragraph (d) of § 404.367 has been cross-referred to § 404.468 (b) and (c).

#### Comments Received Following Publication of Proposed Rulemaking

We received comments from 3 sources. The comments and our responses follow.

*Comment:* There should be a revision of 20 CFR 404.902 to establish that a determination that benefits should be suspended because of the person's confinement for conviction of a felony, constitutes an initial determination from which appeal rights flow.

*Response:* This suggestion has been adopted. It has been our policy to consider a determination about the withholding of a prisoner's benefits, an initial determination. We have amended 20 CFR 404.902 to make this clear in our regulations.

*Comment:* It is recommended that the Social Security Administration consider requiring that those prisoners receiving benefits under the exception to the nonpayment provisions, apply those benefits to the payment of restitution to their victims. That exception is the case where a prisoner is actively and satisfactorily participating in a rehabilitation program which is specifically approved by a court of law for that person and which the Secretary of Health and Human Services expects will result in the person's being able to do substantial gainful work upon release and within a reasonable time.

*Response:* The law does not permit us to impose this type of requirement. Under the law, a prisoner who qualifies for the exception to the nonpayment provision and otherwise satisfies the requirements for benefits is entitled to those benefits. Section 207 of the Social Security Act and 20 CFR 404.1820 prohibit the assignment of benefits. Section 207 specifies that the right of any person to any future payment under

Title II of the Act, Federal Old-Age Survivors and Disability Insurance Benefits, "shall not be transferable or assignable, at law or in equity, and none of the monies paid or payable or rights existing under this title shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law."

*Comment:* One commenter asserted that the certification in the Notice of Proposed Rule Making published in the *Federal Register* incorrectly reflects the concept that only adverse impact on small entities need be considered for purposes of the Regulatory Flexibility Act.

*Response:* Our certification did not rest on adverse impact, but on the absence of significant impact on a substantial number of small entities.

*Executive Order 12291.*—These regulations have been reviewed under E.O. 12291 and do not meet any of the criteria for a major regulation. Therefore, a regulatory impact analysis is not required. Estimated administrative costs for fiscal years 1982 and 1983 are \$300 thousand each year. Estimated program savings for fiscal years 1982 and 1983 are \$10 million and \$11 million respectively.

*Paperwork Reduction Act.*—These regulations impose no reporting/recordkeeping requirements.

*Regulatory Flexibility Act.*—We certify in accordance with the Regulatory Flexibility Act that these regulations will not have a significant economic impact on a substantial number of small entities, because they only place certain restrictions on the payment of benefits based on disability and students benefits to persons who have been convicted of a felony and are imprisoned and restrict the use of certain impairments in determining disability.

The amendments are issued under the authority contained in sections 202, 205, 216, 223, and 1102 of the Social Security Act, as amended; 49 Stat. 623, as amended, 53 Stat. 1362, as amended, 64 Stat. 510, as amended, 70 Stat. 815, as amended, and 49 Stat. 647, as amended; 42 U.S.C. 402, 405, 416, 423 and 1302. These amendments are hereby adopted as set forth below.

(Catalog of Federal Domestic Assistance Program Nos. 13.802, Social Security Disability Insurance; 13.803, Social Security Retirement Insurance; 13.805, Social Security Survivors' Insurance)

#### List of Subjects in 20 CFR Part 404

Administrative practice and procedure, Death benefits, Disabled,

Old-age, survivors and disability insurance.

Dated: November 29, 1982.

John A. Svahn,  
Commissioner of Social Security.

Approved: January 19, 1983.

Richard S. Schweiker,  
Secretary of Health and Human Services.

Chapter III of Title 20, Code of Federal Regulations, is amended as follows:

**PART 404—FEDERAL OLD-AGE, SURVIVORS AND DISABILITY INSURANCE (1950—)**

**Subpart D—Old-Age, Disability, Dependents' and Survivors' Insurance Benefits; Period of Disability**

20 CFR Part 404, Subpart D is amended as follows:

1. The authority citation for Subpart D reads as follows:

Authority: Secs. 202, 205, 216, 223, 228, 1102 of the Social Security Act, 49 Stat. 623, 53 Stat. 1368, 64 Stat. 492, 70 Stat. 815, 80 Stat. 67, 49 Stat. 647; Sec. 5, Reorganization Plan No. 1 of 1953, 67 Stat. 631; 42 U.S.C. 402, 405, 416, 423, 428, and 1302, and 5 U.S.C. Appendix.

2. Section 404.367 is amended by adding a new paragraph (d), reading as follows:

**§ 404.367 When are you a "full-time student."**

\* \* \* \* \*

(d) You are not confined in a jail, prison, or other penal institution or correctional facility for conviction of a felony committed after October 19, 1980. (See § 404.468, paragraphs (b) and (c) for the meaning of "felony" and an explanation of when we consider a person to be confined in a penal or correctional facility.)

**Subpart E—Deductions; Reductions; and Nonpayments of Benefits**

20 CFR Part 404, Subpart E is amended as follows:

3. The authority citation for Subpart E reads as follows:

Authority: Secs. 205, 207, and 1102, 53 Stat. 1368, as amended, 79 Stat. 379, as amended, 49 Stat. 647, as amended; sec. 5 of Reorganization Plan No. 1 of 1953, 67 Stat. 18; 42 U.S.C. 405, 427, 1302, unless otherwise noted.

4. A new § 404.468 is added to Subpart E, reading as follows:

**§ 404.468 Nonpayment of benefits based on disability to prisoners.**

(a) *General.* Except for widows, widowers, and surviving divorced spouses, no benefits based upon disability will be paid to any individual

for any month any part of which the individual is confined in a jail, prison, or other penal institution or correctional facility for conviction of a felony. This rule is effective with benefits payable for months beginning on or after October 1, 1980. However, it applies only to the prisoner; benefit payments to any other person who is entitled on the basis of the prisoner's wages and self-employment income are payable as though the prisoner were receiving disability benefits.

(b) *Felonious offenses.* An offense will be considered a felony if—

(1) It is a felony under applicable law; or

(2) In a jurisdiction which does not classify any crime as a felony, it is an offense punishable by death or imprisonment for a term exceeding one year.

(c) *Confinement.* In general, a jail, prison, or other penal institution or correctional facility is a facility which is under the control and jurisdiction of the agency in charge of the penal system or in which convicted criminals can be incarcerated. Confinement in such a facility continues as long as the individual is under a sentence of confinement and has not been released due to parole or pardon. An individual is considered confined even though he or she is temporarily or intermittently outside of that facility (e.g., on work release, attending school, or hospitalized).

(d) *Vocational rehabilitation exception.* The nonpayment provision of paragraph (a) of this section does not apply if the prisoner is actively and satisfactorily participating in a rehabilitation program which has been specifically approved for the individual by a court of law. In addition, the Secretary must determine that the program is expected to result in the individual being able to do substantial gainful activity upon release and within a reasonable time. No benefits will be paid to the prisoner for any month prior to the approval of the program.

**Subpart J—Determinations, Administrative Review Process, and Reopening of Determinations and Decisions**

5. The authority citation for Subpart J of Part 404 reads as follows:

Authority: Secs. 205 and 1102 of the Social Security Act, sec. 5 of Reorganization Plan No. 1 of 1953, 53 Stat. 1368, 49 Stat. 647 (42 U.S.C. 405 and 1302).

6. Section 404.902 is amended by revising paragraphs (q) and (r) and by adding paragraph (s) to read as follows:

**§ 404.902 Administrative actions that are initial determinations.**

Initial determinations are the determinations we make that are subject to administrative and judicial review. The initial determination will state the important facts and give the reasons for our conclusions. In the old age, disability, dependents' and survivors' insurance programs, initial determinations include, but are not limited to, determinations about—

\* \* \* \* \*

(q) An offset of your benefits under § 404.408b because you previously received supplemental security income payments for the same period;

(r) Whether your completion of or continuation for a specified period of time in an appropriate vocational rehabilitation program will significantly increase the likelihood that you will not have to return to the disability benefit rolls and thus, whether your benefits may be continued even though you are not disabled; and

(s) Nonpayment of your benefits under § 404.468 because of your confinement in a jail, prison, or other penal institution or correctional facility for conviction of a felony.

**Subpart P—Determining Disability and Blindness**

20 CFR Part 404, Subpart P is amended as follows:

7. The authority citation for Subpart P reads as follows:

Authority: Issued under Secs. 202, 205, 216, 221, 222, 223, 225, and 1102 of the Social Security Act, as amended; 49 Stat. 623, as amended, 53 Stat. 1366, as amended, 68 Stat. 1080, as amended, 68 Stat. 1081, as amended, 68 Stat. 1082, as amended, 70 Stat. 815, as amended, 70 Stat. 817, as amended, 49 Stat. 647, as amended; 42 U.S.C. 402, 405, 416, 421, 422, 423, 425, and 1302.

8. A new § 404.1506 is added to Subpart P, reading as follows:

**§ 404.1506 When we will not consider your impairment.**

(a) *Permanent exclusion of felony-related impairment.* In determining whether you are under a disability, we will not consider any physical or mental impairment, or any increase in severity (aggravation) of a preexisting impairment, which arises in connection with your commission of a felony after October 19, 1980, if you are subsequently convicted of this crime. Your subsequent conviction will invalidate any prior determination establishing disability if that determination was based upon any impairment, or aggravation, which we must exclude under this rule.



(b) *Limited use of impairment arising in prison.* In determining whether you are under a disability for purposes of benefit payments, we will not consider any physical or mental impairment, or any increase in severity (aggravation) of a preexisting impairment, which arises in connection with your confinement in a jail, prison, or other penal institution or correctional facility for conviction of a felony committed after October 19, 1980. The exclusion of the impairment, or aggravation, applies in determining disability for benefits payable for any month during which you are confined. This rule does not preclude the establishment of a period of disability based upon the impairment or aggravation. You may become entitled to benefits upon release from prison provided that you apply and are under a disability at the time.

(c) *Felonious offenses.* We will consider an offense a felony if—

(1) It is a felony under applicable law; or

(2) In a jurisdiction which does not classify any crime as a felony, it is an offense punishable by death or imprisonment for a term exceeding one year.

(d) *Confinement.* In general, a jail, prison, or other penal institution or correctional facility is a facility which is under the control and jurisdiction of the agency in charge of the penal system or in which convicted criminals can be incarcerated. Confinement in such a facility continues as long as you are under a sentence of confinement and have not been released due to parole or pardon. You are considered confined even though you are temporarily or intermittently outside of the facility (e.g., on work release, attending school, or hospitalized).

#### § 404.1577 [Amended]

9. Section 404.1577 of Subpart P is amended by adding to the end a new sentence that reads: "We also do not consider certain felony-related and prison-related impairments, as explained in § 404.1506."

#### § 404.1581 [Amended]

10. Section 404.1581 of Subpart P is amended by adding to the end a new sentence that reads: "We do not consider certain felony-related and prison-related impairments, as explained in § 404.1506."

[FR Doc. 83-3224 Filed 2-7-83; 8:45 am]

BILLING CODE 4190-11-M

## Food and Drug Administration

### 21 CFR Part 173

[Docket Nos. 76G-0445, 77G-0099, 81G-0048, and 82G-0148]

### Secondary Direct Food Additives Permitted in Food for Human Consumption; Glutaraldehyde and Diethylaminoethylcellulose

**AGENCY:** Food and Drug Administration.  
**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is amending the food additive regulations to provide for the safe use of diethylaminoethylcellulose (DEAE-cellulose) and glutaraldehyde as fixing agents in the immobilization of glucose isomerase enzyme preparations. This action is in response to petitions filed by Standard Brands, Miles Laboratories, Novo Laboratories, and GB Fermentation Industries. Elsewhere in this issue of the *Federal Register*, the agency is affirming that certain insoluble glucose isomerase enzyme preparations are generally recognized as safe (GRAS) for use in the manufacture of high fructose corn syrup and is listing high fructose corn syrup as GRAS for use in food.

**DATES:** Effective February 8, 1983; objections by March 10, 1983.

**ADDRESS:** Written objections to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Mary C. Custer, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-9463.

**SUPPLEMENTARY INFORMATION:** In the *Federal Register* of August 6, 1974 (39 FR 28310), December 7, 1976 (41 FR 53545), May 27, 1977 (42 FR 27298), and March 10, 1981 (46 FR 15953), FDA announced that GRAS petitions (GRASP) 4G0042 (Docket No. 82G-0148), 7G0080 (Docket No. 76G-0445), 7G0086 (Docket No. 77G-0099), and 1G0271 (Docket No. 81G-0048) had been filed by Standard Brands, Inc., 625 Madison Ave., New York, NY 10022; Miles Laboratories, Inc., Elkhart, IN 46514; Novo Laboratories, Inc., 59 Danbury Rd., Wilton, CT 06897; and GB Fermentation Industries, Inc., One North Broadway, Des Plaines, IL 60016; respectively. Each of the petitions requested affirmation that a specific glucose isomerase enzyme preparation, derived from a specific microorganism and immobilized after fixation with a specific material, is GRAS for use in the

production of high fructose corn syrup. The microorganisms named in the petitions are *Streptomyces rubiginosus* (GRASP 4G0042), *Streptomyces olivaceus* (GRASP 7G0080), *Bacillus coagulans* (GRASP 7G0086), and *Actinoplanes missouriensis* (GRASP 1G0271). The materials used to fix the glucose isomerase enzyme preparations are DEAE-cellulose (GRASP 4G0042) and glutaraldehyde (GRASP 7G0080, 7G0086, and 1G0271). In addition, GRAS petitions 7G0086 and 1G0271 requested affirmation that the high fructose corn syrup produced by the specific enzyme preparation named in the petition is GRAS.

The final regulation, § 184.1372 (21 CFR 184.1372), affirming the GRAS status of insoluble glucose isomerase enzyme preparations is published elsewhere in this issue of the *Federal Register*. Glutaraldehyde and DEAE-cellulose are used as fixing agents in the immobilization of these enzyme preparations.

FDA has evaluated the data in the petitions. These data demonstrate that:

1. Glutaraldehyde and DEAE-cellulose were not commonly used in food production in the United States before January 1, 1958.

2. The requested uses of these substances would be expected to result in glutaraldehyde residues of less than 10 parts per billion and DEAE-cellulose residues of less than 0.3 part per million in high fructose corn syrup.

3. These levels of exposure do not pose a hazard to the public.

4. The requested uses are effective.

As a result of its evaluation, the agency has determined that glutaraldehyde and DEAE-cellulose are not GRAS based upon a safe history of use in food, and that the potential toxicity of crosslinking agents such as glutaraldehyde, and resins, such as DEAE-cellulose, requires limited consumer exposure to these substances. Therefore, the agency has concluded that glutaraldehyde and DEAE-cellulose, when used in the immobilization of glucose isomerase enzyme preparations, are secondary direct food additives subject to section 409 of the Federal Food, Drug, and Cosmetic Act.

Consequently, the agency has evaluated those portions of the petitions submitted for GRAS affirmation (GRASP 4G0042, 7G0080, 7G0086, and 1G0271) that relate to glutaraldehyde and DEAE-cellulose as food additive petitions in accordance with §§ 170.38(c) and 171.1 (21 CFR 170.38(c) and 171.1). The data in the petitions establish that the use of glutaraldehyde and DEAE-cellulose as fixing agents in the

immobilization of glucose isomerase enzyme preparations is safe. Therefore, FDA is amending the secondary direct food additive regulations to provide for the use of glutaraldehyde and DEAE-cellulose as set forth below.

In accordance with § 170.35(c)(2) (21 CFR 170.35(c)(2)), the petitions and the documents that FDA considered and relied upon in reaching its decision to approve the use of these secondary direct food additives are on public display and available for inspection at the dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday. The petitions and documents may also be inspected at the Bureau of Foods (address above) by appointment with the information contact person listed above.

FDA has carefully considered the potential environmental effects of this action and has concluded that the action will not have a significant impact on the human environment, and that an environmental impact statement therefore will not be prepared. The agency's findings of no significant impact and the evidence supporting this finding, contained in an environmental assessment (pursuant to 21 CFR 25.31, proposed December 11, 1979; 44 FR 71742) may be seen in the Dockets Management Branch (address above) between 9 a.m. and 4 p.m., Monday through Friday.

#### List of Subjects in 21 CFR Part 173

Food additives, Food processing aids.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Part 173 is amended by adding new § 173.357, to read as follows:

#### PART 173—SECONDARY DIRECT FOOD ADDITIVES PERMITTED IN FOOD FOR HUMAN CONSUMPTION

##### § 173.357 Materials used as fixing agents in the immobilization of enzyme preparations.

Fixing agents may be safely used in the immobilization of enzyme preparations in accordance with the following conditions:

(a) The materials consist of one or more of the following:

(1) Substances generally recognized as safe in food.

(2) Substances identified in this subparagraph and subject to such limitations as are provided:

Substances	Limitations
Diethylaminoethyl-cellulose.	May be used as a fixing material in the immobilization of glucose isomerase enzyme preparations for use in the manufacture of high fructose corn syrup, in accordance with § 184.1372 of this chapter.
Glutaraldehyde .....	Do.

(b) The fixed enzyme preparation is washed to remove residues of the fixing materials.

Any person who will be adversely affected by the foregoing regulation may at any time on or before March 10, 1983 submit to the Dockets Management Branch (address above), written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket numbers found in brackets in the heading of this regulation. Received objections may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

*Effective date:* This regulation shall become effective February 8, 1983.

(Secs. 201(s), 409, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348))

Dated: January 19, 1983.

William F. Randolph,  
Acting Associate Commissioner for  
Regulatory Affairs.

[FR Doc. 83-3214 Filed 2-7-83; 8:45 am]

BILLING CODE 4160-01-M

#### 21 CFR Parts 182 and 184

[Docket Nos. 76G-0073, 76G-0445, 77G-0049, 77G-0099, 81G-0048, and 82G-0148]

#### Substances Generally Recognized as Safe; High Fructose Corn Syrup and Insoluble Glucose Isomerase Enzyme Preparations

AGENCY: Food and Drug Administration.

**ACTION:** Final rule.

**SUMMARY:** The Food and Drug Administration (FDA) is listing high fructose corn syrup as generally recognized as safe (GRAS) for use in food in Part 182 (21 CFR Part 182). In addition, the agency is affirming that certain insoluble glucose isomerase enzyme preparations are GRAS for use in the manufacture of high fructose corn syrup. Elsewhere in this issue of the Federal Register, the agency is also approving the secondary direct food additive use of diethylaminoethylcellulose (DEAE-cellulose) and glutaraldehyde as fixing agents in the immobilization of glucose isomerase enzyme preparations. FDA is taking these actions in response to GRAS petitions submitted by Standard Brands, Anheuser-Busch, Miles Laboratories, CPC International, Novo Laboratories, and GB Fermentation Industries.

**DATES:** Effective February 8, 1983. The Director of the Federal Register approves the incorporation by reference of certain publications in 21 CFR 184.1372 effective February 8, 1983.

**FOR FURTHER INFORMATION CONTACT:** Mary C. Custer, Bureau of Foods (HFF-335, Food and Drug Administration, 200 C St., SW., Washington, DC 20204, 202-426-9463.

**SUPPLEMENTARY INFORMATION:** Under the procedures described in § 170.35 (21 CFR 170.35), Standard Brands, Inc., 625 Madison Ave., New York, NY 10022; Anheuser-Busch, Inc., St. Louis, MO 63118; Miles Laboratories, Inc., Elkhart, IN 46514; CPC International, Inc., International Plaza, Englewood Cliffs, NJ 07632; Novo Laboratories, Inc., 59 Danbury Rd., Wilton, CT 06897; and GB Fermentation Industries, Inc., One North Broadway, Des Plaines, IL 60016, submitted GRAS petitions (GRASP 4G0042 (Docket No. 82G-0148), 6G0060 (Docket No. 76G-0073), 7G0080 (Docket No. 76G-0445), 7G0084 (Docket No. 77G-0049), 7G0086 (Docket No. 77G-0099), and 1G0271 (Docket No. 81G-0048), respectively. Each of the petitions requested affirmation that a specific glucose isomerase enzyme preparation, derived from a specific microorganism and rendered insoluble (fixed) with specific materials, is GRAS for use in the production of high fructose corn syrup from corn syrup glucose. The microorganisms named in the petitions are *Streptomyces rubiginosus* (GRASP 4G0042), *Actinoplanes missouriensis* (GRASP 6G0060 and 1G0271), *Streptomyces olivaceus* (GRASP 7G0080), *Streptomyces*

*olivochromogenes* (GRASP 7G0084), and *Bacillus coagulans* (GRASP 7G0086). Materials that are used to render the glucose isomerase enzyme preparations insoluble include DEAE—cellulose (GRASP 7G0042), diatomaceous earth (GRASP 6G0060), glutaraldehyde (GRASP 7G0080 and 7G0086), a porous ceramic carrier (GRASP 7G0084), and a combination of gelatin and glutaraldehyde (GRASP 1G0271). In addition, GRAS petitions 6G0060, 7G0084, 7G0086, and 1G0271 requested affirmation that the high fructose corn syrup produced by the specific enzyme preparation named in the petition is GRAS. FDA published notices of filing for these petitions in the **Federal Register** of August 6, 1974 (39 FR 28310), April 29, 1976 (41 FR 17953), December 7, 1976 (41 FR 53545), June 3, 1977 (42 FR 28601), May 27, 1977 (42 FR 27298), and March 10, 1981 (46 FR 15953), respectively. The agency gave interested persons an opportunity to review the petitions and to submit comments to the Dockets Management Branch. One comment, discussed elsewhere in this preamble, was submitted in response to the notice published on August 6, 1974.

High fructose corn syrup is a mixture of sugars, including approximately 52 percent glucose (dextrose), 43 percent fructose, and 5 percent maltose, isomaltose, and other sugars that are natural components of corn syrup. It is made from high dextrose equivalent corn syrup by the action of a glucose isomerase enzyme preparation.

High fructose corn syrup has been commercially produced in the United States since 1967. The major markets for high fructose corn syrup are, in descending order: beverages, baked goods, processed foods, and dairy products. According to industry reports, 4.3 billion pounds of high fructose corn syrup were produced in 1980. U.S. Department of Agriculture (USDA) production figures show that high fructose corn syrup represented 14.6 percent of the total consumption of nutritive sweeteners in 1980.

In its review of the six subject petitions, FDA has considered three major factors: (1) The source of the glucose isomerase enzyme; (2) the production, fixation, and any additional immobilization of the enzyme preparation; and (3) residual levels of processing materials that may occur in the high fructose corn syrup.

**1. Source of Glucose Isomerase Enzyme.** The subject petitions request GRAS affirmation for specific enzyme preparations derived from *S. rubiginosus*, *A. missouriensis*, *S. olivaceus*, *S. olivochromogenes*, and *B. coagulans*. The petitions provide precise

taxonomic classification of the five microbial sources and provide information that these microbial species are well known to the scientific community and are generally available to that community. FDA has reviewed the published scientific literature and found that it contains studies utilizing these organisms, with no reported toxicity or pathogenicity associated with their use.

Extensive scientific literature searches reported by the petitioners disclosed no evidence that the organisms are toxicogenic or pathogenic. Unpublished pathogenicity studies on the particular strains of the organisms covered by the petitions, which show that these organisms are neither pathogenic nor toxicogenic to several species of laboratory animals, corroborate the safety of these organisms. The petitions provide data that show that these microorganisms can be maintained as pure cultures under conditions that minimize genetic changes. The petitions also provide information that demonstrates that appropriate microbiological, chemical, and physical controls can be maintained during the pure culture fermentation of the microorganisms, and that no antibiotics are produced by the microorganisms during the fermentation.

**2. Production, Fixation, and Additional Immobilization of Enzyme Preparation.** Each petition describes the method used to produce and to immobilize the enzyme-containing cellular materials. This information establishes the identity of processing materials and contaminants that could enter the final food product.

In the case of *S. rubiginosus* and *S. olivochromogenes*, the cells are disrupted, and a cell-free extract is prepared. The enzyme-containing extract is then fixed, that is, rendered insoluble, by adsorbing it onto DEAE-cellulose (*S. rubiginosus*) or a porous ceramic carrier (*S. olivochromogenes*). In the case of *S. olivaceus* and *B. coagulans*, intact, nonviable cells that contain glucose isomerase enzyme are simply fixed by reacting them with glutaraldehyde. In the case of *A. missouriensis*, intact, nonviable cells that contain enzyme activity are directly adsorbed onto diatomaceous earth or mixed with gelatin and reacted with glutaraldehyde.

In all the methods presented in the petitions, except those presented in GRASP 6G0060 and 7G0084, the fixed enzyme preparation is further immobilized by mechanical deposition onto a filter that is supported in a cylindrical reactor tank (column). In GRASP 7G0084, a similar result is

achieved by directly depositing the enzyme-containing material onto a porous ceramic carrier, which is placed into a reactor column. In GRASP 6G0060, the enzyme material is adsorbed onto diatomaceous earth and is not further immobilized before use.

**3. Residual Levels of Processing Materials.** Each petition contains general manufacturing information that provides a basis upon which to determine the residual levels of processing materials that will occur in high fructose corn syrup. This information indicates that, under the presented methods, only very small amounts of materials from the enzyme conversion process will enter the product. Under normal conditions, the fixed enzyme preparation is extensively washed before use to remove processing materials. Furthermore, relatively small amounts of the washed enzyme preparation are used to catalyze the conversion of large quantities of glucose syrup. For example, in a continuous flow process (GRASP 4G0042, 7G0080, 7G0084, 7G0086, and 1G0271), about 7,000 to 9,000 liters of fixed enzyme preparation typically produce from 32 to 36 million liters of high fructose corn syrup. Thus, if any substances from the washed enzyme preparation do enter the high fructose corn syrup, they are diluted by a factor of at least 4,000. In a batch process (GRASP 6G0060), the ratio of syrup produced to fixed enzyme used is not as large but comparably low residual levels of processing materials are assured because the enzyme preparation is removed from the converted glucose syrup by repeated filtration. In addition, high fructose corn syrup produced by either a continuous flow or batch process is subsequently refined by ion-exchange and carbon filtration to further remove residues of the processing materials.

All of the petitions provide analytical data on the levels of processing materials present in high fructose corn syrup. These data confirm that only very small amounts of materials from the enzyme conversion process enter the high fructose corn syrup. The petitions also contain unpublished animal feeding studies establishing that residue levels of fixing agents and substances from the microbial sources up to the measured level, or the level of detection of the analytical method, are safe for human consumption. Each petition includes at least one subchronic (90-day or 6-month) study in the rat and either a 90-day or 6-month study in the dog. Other studies in the petitions include teratology studies in the rabbit or rat, reproduction/teratology studies in the rat, or

multigeneration reproduction studies in the rat.

The petitions also include specifications with supporting analytical data that indicate that the enzyme preparations, produced and fixed as indicated above, meet the general requirements and specifications for enzyme preparations set forth in the Food Chemicals Codex, 3d Ed.

In response to the notice of filing of GRASP 4G0042, published in the Federal Register on August 6, 1974, the agency received a comment from a law firm stating that glucose isomerase enzyme, from whatever source derived, possesses the same basic physical and chemical properties and activity. The comment suggested that GRAS status should not be confined to the use of the enzyme prepared from the particular source named by the petitioner, but rather that the use of glucose isomerase enzyme, as such, in the manufacture of high fructose corn syrup should be affirmed as GRAS.

The agency does not agree with this comment. Although the agency acknowledges that, by definition, a glucose isomerase enzyme from any source will convert glucose to fructose, the agency concludes that this fact alone is inadequate to establish the safety of the use of the final enzyme preparation. As indicated by the data provided in these petitions, an assessment of the safety and suitability of a glucose isomerase-enzyme preparation must include consideration of the safety of the organism from which the enzyme preparation is derived, as well as consideration of the safety of the enzyme preparation itself, including such factors as the presence of additional cellular material and residual processing materials in the enzyme preparation and the level of enzyme preparation in the final food product.

After evaluating the petitions, the agency has made the following conclusions:

1. Data from the petitions establish that insoluble glucose isomerase enzyme preparations have no history of common use in food in the United States before January 1, 1958. Consequently, these enzyme preparations are not GRAS based on history of common use in food.

However, after evaluating the petitions, the agency concludes that insoluble glucose isomerase enzyme preparations derived from safe and suitable microorganisms, such as *S. rubiginosus*, *A. missouriensis*, *S. olivaceus*, *S. olivochromogenes*, and *B. coagulans*, and rendered insoluble (fixed) with GRAS ingredients or approved materials, are GRAS for use in the manufacture of high fructose corn

syrup based on scientific procedures. The published scientific literature demonstrates that the microbial sources are well known and available to the scientific community and contains no reports of toxicity or pathogenicity problems associated with their use. In addition, the animal feeding studies contained in one of the petitions were presented at annual conferences of the American Association of Cereal Chemists (1971) and the American Chemical Society (1973). In addition, a substantial amount of manufacturing data for glucose isomerase enzyme preparations has been published in several publications and also was presented at the annual meetings mentioned above. The manufacturing data indicate that the use of immobilized enzyme preparations results in virtually nil levels of enzymatic processing materials entering the final food product. The conclusion that these preparations are GRAS is corroborated by analytical data and unpublished animal studies contained in the petitions that confirm the safety of the use of these enzyme preparations and the safety of the organisms from which they are derived.

The agency has further concluded that insoluble glucose isomerase enzyme preparations derived from microorganisms other than those listed above may also be GRAS, provided that the selection of the microorganism adheres to the criteria established during this review and reflected above in the discussion entitled, "Source of Glucose Isomerase Enzyme." Under these criteria, GRAS status is limited to enzyme preparations that are derived from microorganisms that are precisely classified, nonpathogenic, nontoxicogenic, and generally available to the scientific community. Furthermore, the published scientific literature should contain studies in which these microorganisms were utilized without any evidence of pathogenicity of toxicogenicity being associated with their use.

2. FDA currently considers the use of food-grade gelatin and diatomaceous earth in the production of high fructose corn syrup to be GRAS. A 1963 FDA advisory opinion letter concluded that diatomaceous earth of a suitable purity is GRAS for use as a filtering aid. The use of diatomaceous earth as a fixing agent for enzymes is very similar to its use as a filtering aid. FDA would classify both of these uses as processing aids as defined in § 170.3(o)(24) (21 CFR 170.3(o)(24)), and both uses would result in the same level of contact with food. Finally, in both of these uses, the diatomaceous earth is removed from the

final food product. Therefore, the agency considers the use of diatomaceous earth as a fixing agent for enzymes to be GRAS. The agency intends to publish a proposal addressing the GRAS status of the food use of diatomaceous earth, including its use as a fixing agent for enzymes, in the near future.

The agency has traditionally considered materials such as ceramics, glass, and stainless steel as GRAS for food-contact use, based on their safe history of common use as food-contact materials before 1958. However, because the use of these materials has been so widespread, the agency has never considered it necessary to list these materials as GRAS. Therefore, the agency is noting that the use of these materials in the production of high fructose corn syrup is GRAS but is continuing its traditional practice of not specifically listing them as GRAS.

3. Glutaraldehyde and DEAE-cellulose, when used in the immobilization of glucose isomerase enzyme preparations, although not GRAS, are safe secondary direct food additives under section 409 of the Federal Food, Drug, and Cosmetic Act. There is no evidence that these substances were commonly used in food for these purposes in the United States before 1958. In addition, the agency has determined that the potential toxicity of crosslinking agents, including glutaraldehyde, and resins, including DEAE-cellulose, that could be used to fix glucose isomerase enzyme preparations establishes a basis for assuring limited consumer exposure to these substances. Consequently, the agency has concluded that the most appropriate way of regulating this group of substances and of ensuring their continued safe use in food is to provide for the use of fixing agents in a food additive regulation.

4. High fructose corn syrup as defined below in new § 182.1866 (21 CFR 182.1866) is GRAS for use in food. The agency has concluded that high fructose corn syrup is as safe for use in food as sucrose, corn sugar, corn syrup, and invert sugar. FDA bases this conclusion on the saccharide composition of this product and the safety of the insoluble glucose isomerase enzyme preparations used in its manufacture. High fructose corn syrup contains approximately the same glucose to fructose ratio as honey, invert sugar, and the disaccharide sucrose. In addition, the minor saccharides contained in high fructose corn syrup are the same, and present at similar levels, as the nonglucose saccharides that are present in corn syrup and corn sugar. Sucrose is

currently GRAS for use in food under § 182.1(a) (21 CFR 182.1(a)) and sucrose, corn sugar (sirup), and invert sugar are listed in § 182.90 (21 CFR 182.90) as GRAS substances that migrate from food packaging. In addition, the agency has historically considered sucrose, corn sugar, corn syrup, and invert sugar to be GRAS for direct use in food.

As a result of these conclusions, the agency is taking the following actions:

1. The agency is approving the secondary direct food additive use of DEAE-cellulose and glutaraldehyde as fixing agents in the immobilization of glucose isomerase enzyme preparations. A document amending Part 173 (21 CFR Part 173) to provide for this use of these substances is published elsewhere in this issue of the *Federal Register*.

2. The agency is affirming under Part 184 (21 CFR Part 184) the GRAS status of certain insoluble (fixed) glucose isomerase enzyme preparations, derived from safe and suitable microorganisms, including *S. rubiginosus*, *A. missouriensis*, *S. olivaceus*, *S. olivochromogenes*, and *B. coagulans*, for use in the manufacture of high fructose corn syrup. These enzyme preparations may be fixed with GRAS ingredients and, if further immobilized, may also be fixed with materials approved under Part 173. The agency has determined that separate GRAS affirmation regulations for specific enzyme preparations are not necessary. As shown in the petitions, insoluble glucose isomerase enzyme preparations, derived from safe and suitable sources and fixed with either GRAS or approved materials, result in a product that is safe and suitable for use in food. Separate regulations for individual enzyme preparations would merely introduce an element of rigidity that is not necessary to ensure the safety of the product, into a relatively new manufacturing process that is undergoing considerable change in response to technological advances.

3. The agency is listing in Part 182 (21 CFR Part 182) high fructose corn syrup as GRAS for use in food. As indicated above, the agency considers that this product is as safe as sucrose, corn sugar, corn syrup, and invert sugar for use in food. The agency currently considers these ingredients as GRAS for use in food under the provisions of Part 182. Therefore, the agency is listing high fructose corn syrup in Part 182.

The agency has undertaken, although it has not yet completed, general GRAS safety reviews of sucrose (47 FR 53923; November 30, 1982) and of corn sugar, corn syrup, and invert sugar (47 FR 53917; November 30, 1982). These safety reviews not only address the safety of glucose and fructose as food ingredients

but also evaluate the effects of total sugar consumption in the diet. Because of the similarity of high fructose corn syrup to these ingredients, FDA will consider whether to affirm its GRAS status following the completion of the general safety reviews of sucrose and of corn syrup, corn sugar, and invert sugar.

The agency is not specifying levels of use or food categories in the GRAS regulations for high fructose corn syrup and for insoluble glucose isomerase enzyme preparations. High fructose corn syrup is listed in Part 182 for use as a nutritive sweetener in food. Its use in food and its listing as GRAS are based on its similarity to sucrose, corn sugar, corn syrup, and invert sugar. These ingredients have widespread use in food, and their current GRAS approval contains no specific conditions of use. Therefore, the agency concludes that it is impractical and inappropriate to list food categories and levels of use for this ingredient. Insoluble glucose isomerase enzyme preparations are used in the manufacture of one product—high fructose corn syrup. Consequently, in lieu of food categories, the regulation specifies this use. Furthermore, the insoluble enzyme preparation is present at such small levels in high fructose corn syrup that the agency has concluded that it is neither useful nor practical to list its levels of use in food. Therefore, the agency is affirming the GRAS status of the insoluble glucose isomerase enzyme preparation when it is used under current good manufacturing practice conditions of use in accordance with § 184.1(b)(1) (21 CFR 184.1(b)(1)). To make clear, however, that the affirmation of the GRAS status of this substance is based on an evaluation of currently known uses, the regulation sets forth the technical effect that FDA evaluated.

In the *Federal Register* of September 7, 1982 (47 FR 39199), FDA proposed to adopt a general policy restricting the circumstances in which it will specifically describe conditions of use in regulations affirming substances as GRAS under 21 CFR 184.1(b)(1) or 186.1(b)(1). The agency proposed to amend its regulations to indicate clearly that it will specify one or more of the current good manufacturing practice conditions of use in regulations for substances affirmed as GRAS with no limitations other than current good manufacturing practice only when the agency determines that it is appropriate to do so.

The format of the final regulation is different from that in previous GRAS affirmation regulations. FDA has modified paragraph (c) of § 184.1372 to make clear the agency's determination

that GRAS affirmation is based upon current good manufacturing practice conditions of use, including the technical effect listed, this change has no substantive effect but is made merely for clarity.

The agency has determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required. The agency's finding of no significant impact and the evidence supporting that finding may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this rule, and the agency has determined that the rule is not a major rule as defined by the Order. A copy of the threshold assessment supporting this determination is on file with the Dockets Management Branch (address above).

#### List of Subjects

##### 21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

##### 21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) good ingredients, Incorporation by reference.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), Parts 182 and 184 are amended as follows:

#### PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

1. Part 182 is amended by adding new § 182.1866, to read as follows:

##### § 182.1866 High fructose corn syrup.

(a) *Product*. High fructose corn syrup is a sweet, nutritive saccharide mixture containing approximately 52 percent (dry weight) glucose, 43 percent (dry weight) fructose, and 5 percent (dry weight) other saccharides. It is prepared as a clear aqueous solution from high dextrose equivalent corn starch hydrolysate by partial enzymatic conversion of glucose (dextrose) to

fructose utilizing an insoluble glucose isomerase enzyme preparation described in § 184.1372 of this chapter.

(b) *Limitations, restrictions, or explanations.* This substance is generally recognized as safe when used in food as a nutritive carbohydrate sweetener at levels not to exceed current good manufacturing practice.

#### PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

2. Part 184 is amended by adding new § 184.1372, to read as follows:

##### § 184.1372 Insoluble glucose isomerase enzyme preparations.

(a) Insoluble glucose isomerase enzyme preparations are used in the production of high fructose corn syrup described in § 182.1866 of this chapter. They are derived from recognized species of precisely classified, nonpathogenic, and nontoxicogenic microorganisms, including *Streptomyces rubiginosus*, *Actinoplanes missouriensis*, *Streptomyces olivaceus*, *Streptomyces olivochromogenes*, and *Bacillus coagulans*, that have been grown in a pure culture fermentation that produces no antibiotics. They are fixed (rendered insoluble) for batch production with GRAS ingredients or may be fixed for further immobilization with either GRAS ingredients or materials approved under § 173.357 of this chapter.

(b) The ingredient meets the general and additional requirements for enzyme preparations in the Food Chemicals Codex, 3d Ed. (1981), p. 107, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as an enzyme, as defined in § 170.3(o)(9) of this chapter, to convert glucose to fructose.

(2) The ingredient is used in high fructose corn syrup, at levels not to exceed current good manufacturing practice.

*Effective date.* This regulation shall become effective February 8, 1983.

(Secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a)))

Dated: January 19, 1983.

William F. Randolph,  
Acting Associate Commissioner for  
Regulatory Affairs.

[FR Doc. 83-3215 Filed 2-7-83; 8:45 am]

BILLING CODE 4160-01-M

#### DEPARTMENT OF TRANSPORTATION

##### Federal Highway Administration 23 CFR Ch. I

##### National Motor Carrier Advisory Committee

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of public meetings.

**SUMMARY:** The FHWA announces that the National Motor Carrier Advisory Committee will hold a series of public meetings in San Francisco, California; Chicago, Illinois; and Washington, D.C., to solicit comments concerning the statement of FHWA interpretation and policy addressing the truck size and weight provisions contained in the Surface Transportation Assistance Act of 1982 (STAA) and the DOT Appropriations Act of 1982. The FHWA statement was issued in February 1, 1983, and published in the *Federal Register* on February 3, 1983 (48 FR 5210).

**DATES:** The meetings will be held beginning at 9:00 a.m. on February 24, 1983 in Washington, D.C., on March 2, 1983 in Chicago, Ill., on March 10, 1983 in San Francisco, Calif.

**ADDRESSES:** The meetings will be held at the following places:

February 24, 1983 in Washington, D.C., at the Department of Transportation's Headquarters Building, 400 Seventh Street, SW., Room 2230.

March 2, 1983 in Chicago, Illinois, at the Federal Building, 230 S. Dearborn Street, Room 349.

March 10, 1983 in San Francisco, California, at the Federal Building, 450 Golden Gate Avenue, Room 200.

**FOR FURTHER INFORMATION CONTACT:** Mr. James J. Stapleton, Acting Executive Director, National Motor Carrier Advisory Committee, Federal Highway Administration, HCC-20, Room 4224, 400 Seventh Street, SW., Washington, D.C. 20590, (202) 426-0834. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

**SUPPLEMENTARY INFORMATION:** 1. *Agenda.* The agenda of the meetings will be limited to the receipt of comments concerning the statement of FHWA interpretation and policy addressing the truck size and weight provisions

contained in the STAA and the DOT Appropriations Act of 1982. The FHWA statement addressed the explicit truck weight, length and width statutory provisions and the following primary issues relating to those provisions:

(a) Effective dates;

(b) Identification of the "qualifying highways" referred to in Sections 411 of the STAA and 321 of the DOT Appropriations Act; and

(c) Definition of "reasonable access" referred to in Sections 133 and 412 of the STAA.

2. *Submission of comments and request to testify.* Interested persons are invited to comment on the subject-matter of the meetings. Written comments may be submitted at the time and place of the meetings. (These comments are in addition to any comments that anyone may wish to submit in response to the request for comments in connection with the FHWA policy statement published in the *Federal Register* on February 3, 1983.

Anyone desiring an opportunity to make an oral presentation at one of the meetings should make a written request to do so at least ten days prior to the date of the meeting in question. The person making the request should describe his or her interest and, if appropriate, state whether he or she is a representative of a group or class of persons that has such an interest. A telephone number should be given where he or she may be contacted up until the day before the meeting. Requests to testify should be addressed to: Mr. James J. Stapleton, Acting Executive Director, National Motor Carrier Advisory Committee, Federal Highway Administration, HCC-20, Room 4224, 400 Seventh Street, SW., Washington, D.C. 20590.

3. *Conduct of Meetings.* The Advisory Committee reserves the right to limit the number of speakers from any one group or organization to be heard at the meetings, to schedule their respective presentations, and to establish the procedures governing the conduct of the meetings. The length of each presentation may be limited, based on the number of persons or organizations requesting to be heard.

A member of the Advisory Committee will be designated to preside at the meetings, which will not be judicial or evidentiary-type hearings. Questions may be asked only by members of the Advisory Committee or the Acting Executive Director, and there will be no cross examination of persons presenting statements.

Any person attending and who wishes to ask a question may submit the



question in writing to the presiding officer.

Any further procedural rules needed for the proper conduct of the meetings will be announced by the presiding officer.

Issued on: February 4, 1983.

R. A. Barnhart,

*Federal Highway Administrator, Federal Highway Administration.*

[FR Doc. 83-3471 Filed 2-7-83; 8:45 am]

BILLING CODE 4910-22-M

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

### Office of Assistant Secretary for Housing—Federal Housing Commissioner

#### 24 CFR Part 885

[Docket No. R-83-1058]

#### Loans for Housing for the Elderly or Handicapped; Fiscal Year 1983 Interest Rate

**AGENCY:** Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

**ACTION:** Final rule.

**SUMMARY:** In compliance with the Further Continuing Appropriations Act, 1983 (Pub. L. 97-377), this rule amends 24 CFR Part 885 to establish the interest rate for direct loans for housing for the elderly or handicapped made during Fiscal Year 1983 at 9% percent per annum. This interest rate is the same rate as was applicable to loans made during Fiscal Year 1982.

**EFFECTIVE DATE:** February 8, 1983.

**FOR FURTHER INFORMATION CONTACT:** Robert W. Wilden, Director, Elderly, Cooperative, Congregate and Health Facilities Division, 451 7th Street, SW., Room 6136, Washington, D.C. 20410, Telephone (202) 426-8730. (This is not a toll-free number.)

**SUPPLEMENTARY INFORMATION:** Section 202(a)(3) of the Housing Act of 1959, as amended, provides that a loan for housing for the elderly or handicapped shall bear interest at a rate which is not more than a rate determined by the Secretary of the Treasury, taking into consideration the average interest rate on all interest bearing obligations of the United States then forming a part of the public debt computed at the end of the fiscal year next preceding the date on which the loan is made, adjusted to the nearest one-eighth of one percent, plus

an allowance adequate in the judgment of the Secretary of HUD to cover administrative costs and probable losses under the program. The existing regulation provision (24 CFR 885.410(g)) incorporates a determination by the Secretary that the allowance for administrative costs and probable losses should be one-fourth of one percent (.25%) per annum for both the construction and permanent loan periods.

Application of this formula to loans made during Fiscal Year 1983 would have yielded an interest rate of 11% percent per annum. The Further Continuing Appropriations Act, 1983, however, establishes a 9% percent per annum interest rate for direct loans made in Fiscal Year 1983.

Since this amendment implements a statutory mandate the Secretary has determined that notice and public procedure on this amendment are unnecessary. In addition the Secretary has determined that it is in the public interest to implement his decision as soon as possible, so that projects previously approved as feasible under the Fiscal Year 1982 interest rate can proceed to construction without delay. Accordingly, good cause exists for publishing this amendment as a final rule, without providing a prior comment period, and for making it effective less than 30 days after such publication.

Section 7(o)(3) of the Department of HUD Act (42 U.S.C. 3535(o)(3)) provides for a delay in the effectiveness of HUD regulations for a period of 30 calendar days of continuous session of Congress after publication, unless waived by the Chairmen and Ranking Minority Members of the Senate Committee on Banking, Housing and Urban Affairs and the House Committee on Banking, Finance and Urban Affairs. The Secretary has requested and received such waivers.

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement Section 102(2)(C) of the National Environmental Policy Act of 1969. The Finding of No Significant Impact is available for public inspection and copying during regular business hours at the Office of the Rules Docket Clerk, Office of the General Counsel, Room 10278, Department of Housing and Urban Development, 451 Seventh Street S.W., Washington, D.C.

This rule does not constitute a "major rule" as that term is defined in Section-1(b) of Executive Order 12291 on Federal

Regulation. Analysis of the rule indicates that it does not (1) have an annual effect on the economy of \$100 million or more; (2) cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Pursuant to Section 605(b) the (Regulatory Flexibility Act), the undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities because, under the rule, the current interest rate would remain in effect.

The Catalog of Federal Domestic Assistance Program title and number is Housing for the Elderly or Handicapped, 14.157.

This rule was not listed in the Department's Semiannual Agenda of Regulations published pursuant to Executive Order 12291 and the Regulatory Flexibility Act of October 28, 1982 (47 FR 48422).

#### List of Subjects in 24 CFR Part 885

Aged, Grant programs—housing and community development, Handicapped, Loan programs—housing and community development, Low and moderate income housing.

#### PART 885—LOANS FOR HOUSING FOR THE ELDERLY OR HANDICAPPED

Accordingly, 24 CFR 885.410(g) is revised to read as follows:

##### § 885.410 Amount and terms of financing.

(g) Except for loans made during Fiscal Years 1982 and 1983, which shall bear an interest rate of nine and one-fourth percent (9%) per annum, loans shall bear interest at a rate established by the Secretary by adding:

(1) A rate determined by the Secretary of the Treasury to be the average interest rate on all interest-bearing obligations of the United States then forming a part of the public debt computed at the end of the fiscal year immediately prior to the date on which the loan is made; plus (2) an allowance to cover administrative costs and probable losses under the program, which allowance has been determined

by the Secretary of HUD to be one-fourth of one percent (.25%) per annum for both the construction and permanent loan periods.

(Sec. 202, Housing Act of 1959 (12 U.S.C. 1701g); Sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)))

Dated: January 19, 1983.

Philip Abrams,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 83-3378 Filed 2-7-83; 8:45 am]

BILLING CODE 4210-27-M

## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Part 52

[A-4-FRL 2293-2; SC-003]

#### Approval and Promulgation of Implementation Plans; South Carolina: Opacity Limits for Williams Power Station

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

**SUMMARY:** On June 25, 1982, the South Carolina Department of Health and Environmental Control (DHEC) submitted a State Implementation Plan (SIP) revision for South Carolina Electric and Gas Company (SCE&G), Williams Power Station, located in Charleston. The plan revision is a special operating permit which limits the opacity of emissions from the Williams Power Station to 40% in-stack and 60% out-of-stack. South Carolina's current SIP limits visible emissions from fuel-burning operations to 40% opacity out-of-stack. The Environmental Protection Agency is today approving the revision.

**EFFECTIVE DATE:** This action will be effective on April 11, 1983, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

**ADDRESSES:** Written comments should be addressed to Denise W. Pack of EPA Region IV's Air Management Branch (see EPA Region IV address below). Copies of the material submitted by South Carolina may be examined during normal business hours at the following locations:

Public Information Reference Unit,  
Library System Branch,  
Environmental Protection Agency, 401  
M Street, SW., Washington, D.C.  
20460

Environmental Protection Agency,  
Region IV, Air Management Branch,  
345 Courtland Street, NE, Atlanta,  
Georgia 30365

Office of the Federal Register, 1100 L  
Street, NW., Room 8401, Washington,  
D.C. 20005

Bureau of Air Quality Control, S.C.  
Department of Health &  
Environmental Control, 2600 Bull  
Street, Columbia, South Carolina  
29201

#### FOR FURTHER INFORMATION CONTACT:

Denise W. Pack, EPA Region IV, Air  
Management Branch at the above-listed  
address, phone 404/881-3286 (FTS 257-  
3286).

**SUPPLEMENTARY INFORMATION:** On June 25, 1982, the South Carolina Department of Health and Environmental Control (DHEC) submitted as a State Implementation Plan revision an operating permit for South Carolina Electric and Gas Company (SCE&G), Williams Power Station, located in Charleston. On September 1, 1981, the SCE&G had requested that the DHEC issue a modified permit to the Williams Power Station. DHEC had, by administrative order, required the Williams Power Station to come into compliance with applicable visible emission limiting regulation no later than June 1, 1981. SCE&G could not meet this requirement and on July 29, 1981, performed particulate emission testing showing that the particulate loading is within the allowable emission rate even when the opacity exceeds the allowable 40%. This indicates that the normal relationship between visible emissions and mass emission rate does not apply to the Williams Power Station.

The DHEC reviewed this request and on November 17, 1981, held a public hearing on the special operating permit for SCE&G-Williams Power Station. The operating permit will limit emissions from SCE&G to 40% opacity in-stack, as determined by a transmissometer, and 60% out-of-stack, as determined by visual observation. The State's current regulation (Regulation 62.5 Standard No 1 Section IA) limits opacity from fuel-burning operations to 40% and deals only with out-of-stack opacities. The revision was adopted by the DHEC board on June 24, 1982.

EPA has reviewed the June 25, 1982, submittal and is today approving the special operating permit for Williams Power Station.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 11, 1983. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2)).

The Office of Management and Budget has exempted this rule from the requirement of Section 3 of Executive Order 12291.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Incorporation by reference of the South Carolina State Implementation Plan was approved by the Director of the Federal Register on July 1, 1982.

#### List of Subjects in 40 CFR Part 52

Air pollution control,  
Intergovernmental relations, Ozone,  
Sulfur oxides, Nitrogen dioxide, Lead,  
Particulate matter, Carbon monoxide,  
Hydrocarbons.

(Sec. 110 of the Clean Air Act (42 U.S.C. 7410))

Dated: February 1, 1983.

Anne M. Gorsuch,  
Administrator.

#### PART 52—[AMENDED]

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

#### Subpart PP—South Carolina

In § 52.2120, is amended by adding paragraph (c)(24) to read as follows:

#### § 52.2120 Identification of plan.

(c) The plan revisions listed below were submitted on the dates specified.\* \* \*

(24) Special Operating Permit for South Carolina Electric and Gas Company-Williams Power Station, submitted on June 25, 1982, by the South Carolina Department of Health and Environmental Control.

[FR Doc. 83-3203 Filed 2-7-83; 8:45 am]

BILLING CODE 6560-50-M

### 40 CFR Part 52

[A-6-FRL 2288-3]

#### Approval and Promulgation of State Implementation Plans; Arkansas Regulation for Control of VOC

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rulemaking.

**SUMMARY:** The purpose of this notice is to approve a revision to the State Implementation Plan (SIP) for Arkansas. This revision was submitted by the Governor of the State on December 10, 1979.

The State has chosen to amend their control of volatile organic compound (VOC) regulation Section 5.1(a). This



amendment provides that "No person shall cause or permit the loading of gasoline into a storage tank of a gasoline storage or marketing facility with a monthly throughput in excess of 10,000 gallons except through a submerged fill pipe or by bottom loading."

This revision was submitted by the State for the purpose of meeting the requirements of Part D of the Clean Air Act (CAA) and to assist the State in the attainment and maintenance of the National Ambient Air Quality Standards (NAAQS) throughout Arkansas. This rule also amends 40 CFR 52.170.

**DATES:** This rulemaking will be effective on April 11, 1983 unless notice is received by March 10, 1983 that someone wishes to submit adverse or critical comments.

**ADDRESSES:** Copies of the materials submitted by Arkansas and EPA's Evaluation Report may be examined during normal business hours at the following locations:

EPA, Region 6, SIP Section, 1201 Elm Street, Dallas, Texas 75270;

EPA, Public Information Reference Unit, Library Systems Branch, 401 "M" Street SW., Washington, D.C. 20460; or

The Office of the Federal Register, Room 8401, 1100 "L" Street, NW., Washington, D.C. 20460.

**FOR FURTHER INFORMATION CONTACT:**

Jeannean W. Hayes, State Implementation Plan Section, Air and Waste Management Division, Environmental Protection Agency, Region 6, 1201 Elm Street, Dallas, Texas 75270; (214) 767-1518, (FTS) 729-1518.

**SUPPLEMENTARY INFORMATION:** The Governor of Arkansas submitted a revision to the Arkansas regulation for the control of Volatile Organic Compounds (VOCs), Section 5.1(a) *Gasoline Storage and Marketing* on December 10, 1979.

The State of Arkansas has chosen to amend their present VOC regulation by adding the provision that "No person shall cause or permit the loading of gasoline into a storage tank of a gasoline storage or marketing facility with a monthly throughput in excess of 10,000 gallons except through a submerged fill pipe or by bottom loading." This provision exempts stations having throughputs less than or equal to 10,000 gallons per month from submerged fill pipe or bottom loading requirements.

EPA has reviewed the Arkansas SIP revision and finds that the submission is fully approvable as explained in the Evaluation Report which is available for public review at the locations listed in

the Addresses Section of this notice. The submission includes validation that a public hearing was held and adequate time was allowed for public comment.

EPA's policy for control of service stations in general allows an exemption for tanks with a capacity of less than 2,000 gallons. Analysis concludes that gasoline throughput exemption of 120,000 gallons per year (or 10,000 gallons per month) or less is essentially equivalent to a tank size of 2,000 gallons.

Therefore, based on the Agency's review of the Arkansas' submittal, EPA is approving the SIP revision as submitted.

The public should be advised that this action will be effective 60 days from the date of notice. However, if notice is received within 30 days that someone wishes to submit adverse or critical comments, this action will be withdrawn and a subsequent notice published before the effective date. The subsequent notice will withdraw the final action and will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under Section 307(b)(1) of the Clean Air Act judicial review of this final rulemaking notice is available only by the filing of a petition for review in the United States Court of Appeals for the appropriate circuit within 60 days of the date of publication. Under Section 307(b)(2) of the Clean Air Act, the requirements which are the subject of today's notice may not be challenged later in civil or criminal proceedings brought by EPA to enforce these requirements.

Pursuant to the provisions of 5 U.S.C. 605(b) I certify that this notice will not have a significant economic impact on a substantial number of small entities since it imposes no new regulatory requirements. This action only approves a State action.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

Incorporation by reference of the State Implementation Plan for Arkansas was approved by the Director of the Federal Register on July 1, 1982.

This notice of final rulemaking is issued under the authority of Section 110 of the Clean Air Act, 42 U.S.C. 7410.

**List of Subjects in 40 CFR Part 52**

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

Dated: February 1, 1983.

Anne M. Gorsuch

Administrator.

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

Title 40, Part 52, Subpart E—Arkansas, of the Code of Federal Regulations is amended to add paragraph (c)(21) as follows:

**§ 52.170 Identification of Plan.**

\* \* \*

(c) \* \* \*

(21) On December 10, 1979, the Governor submitted a revision to Section 5.1(a) of the Regulation of the Arkansas Plan of Implementation for Air Pollution Control, which controls VOC emissions. This revision was adopted by the Arkansas Commission on Pollution Control and Ecology on November 16, 1979.

[FR Doc. 83-3202 Filed 2-7-83; 8:45 am]

BILLING CODE 6560-50-M

**40 CFR Part 52**

[A-1-FRL 2283-4]

**Approval and Promulgation of Implementation Plans; Connecticut Revision—Sulphur-in-Fuel Regulations**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** EPA is today approving a State Implementation Plan (SIP) revision submitted by the State of Connecticut for Dow Chemical USA in Gale's Ferry, Connecticut. The intended effect of this rulemaking is to promulgate a change in the sulfur-in-oil limit for this source so it may burn 1% sulfur oil under specified operating conditions.

**DATE:** Effective February 8, 1983.

**ADDRESSES:** Copies of the Connecticut submittals are available for public inspection during normal business hours at the Environmental Protection Agency, Room 2312, JFK Federal Building, Boston, Massachusetts 02203; Public Information Reference Unit, Environmental Protection Agency, 401 M Street, SW., Washington, D.C.; the Office of the Federal Register, 1100 L Street, NW., Room 9401, Washington, D.C.; and the Connecticut Department of Environmental Protection, Air Compliance Unit, State Office Building, Hartford, Connecticut 06115.

**FOR FURTHER INFORMATION CONTACT:** Sarah Simon, Air Management Division, Room 2312, JFK Federal Building,

Boston, Massachusetts 02203, (617) 223-5633.

**SUPPLEMENTARY INFORMATION:** On September 11, 1981, EPA proposed approval (46 FR 45378) of revisions to the Connecticut State Implementation Plan (SIP) proposed by the Connecticut Department of Environmental Protection (DEP). We approved the 1% sulfur oil revision for most sources on November 18, 1981 (46 FR 56812) and took no action on several others. Our action today supplements our November action by approving the new 1% sulfur-in-oil limit for one source, Dow Chemical in Gale's Ferry, not previously approved. The order, including Dow's new emission limitations, was signed by the DEP Commissioner on May 27, 1982 (Connecticut State Order 7002B). The Commissioner formally submitted the SIP revision to EPA by letter of December 20, 1982.

A thorough discussion of the 1% sulfur oil revision, its technical support, EPA's rulemaking procedures, and EPA's reasons for approval were presented in the September 1981 Notice of Proposed Rulemaking and will not be fully repeated here. Briefly, the original screening analyses did not demonstrate compliance with the National Ambient Air Quality Standards (NAAQS) for sulfur dioxide for 17 sources. Therefore, EPA proposed to approve the revision allowing those sources to use 1.0% sulfur oil *provided that* the revision submittal was expanded to include additional refined modeling demonstrations or operating restrictions that would ensure NAAQS compliance.

Further state review of the Dow facility, using the EPA screening model VALLEY with operating restrictions imposed, has demonstrated compliance with the NAAQS when burning 1% sulfur oil. The final State Order (7002B) approves the use of 1% sulfur oil under operating restrictions that allow one of two available large boilers to operate at any one time unless "a final decision on a definition of ambient air as currently under review render[s] an interpretation such that on-site modeled exceedances of NAAQS are not considered violations of NAAQS." Region I inspected the Dow site and found it both accessible to the public and close to nearby private residences. For this reason, in a letter dated November 8, 1982, to the DEP Air Director, Leonard Bruckman, EPA decided that the Dow site was an ambient air area, and that boiler operation would have to be restricted. The requisite operating restrictions of Order 7002B are incorporated into the SIP as part of this rulemaking.

After evaluation of the State's submittals, the Administrator has determined that this Connecticut revision meets the requirements of the Clean Air Act and 40 CFR Part 51. Accordingly, it is approved as a revision to the Connecticut SIP.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

The Agency finds that good cause exists for making this action effective immediately since this implementation plan revision is already in effect under state law and EPA approval imposes no additional regulatory burden.

Under Section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by (60 days from today). The Action may *not* be challenged later in proceedings to enforce its requirements. (See Section 307(b)(2).)

#### List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Hydrocarbons, Carbon monoxide.

(Sec. 110(a) and Section 301(a) of the Clean Air Act, as amended, 42 U.S.C. 7410 and 7601)

Dated: January 19, 1983.

Anne M. Gorsuch,  
Administrator.

**Note.**—Incorporation by reference of the State Implementation Plan for the State of Connecticut was approved by the Director of the Federal Register on July 1, 1982.

#### PART 52—[AMENDED]

Part 52 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

##### Subpart H—Connecticut

1. Section 52.370, is amended by adding paragraph (c)(26) as follows:

##### § 52.370 Identification of plan.

\* \* \* \* \*

(c) The plan revisions listed below were submitted on the dates specified.

\* \* \* \* \*

(26) Revision for Dow Chemical U.S.A. in Gale's Ferry submitted by the Commissioner of the Connecticut Department of Environmental Protection on December 20, 1982, including state order 7002B signed on May 27, 1982. This provision supersedes a portion of the revisions identified under (c)(18).

##### § 52.380 [Amended]

2. Section 52.380, paragraph (d)(9) is amended by removing and reserving paragraph (v).

[FR Doc. 83-3294 Filed 2-7-83; 8:45 am]

BILLING CODE 6560-50-M

#### 40 CFR Part 80

(AH-FRL 2301-3)

#### Regulation of Fuels and Fuel Additives

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** On October 29, 1982, EPA promulgated regulations governing the allowable lead content of leaded gasoline (47 FR 49322). These regulations were challenged by several refiners, and on January 26, 1983, the U.S. Court of Appeals for the District of Columbia Circuit vacated, effective February 2, 1983, the portion of the regulations establishing an interim standard of 1.90 grams of leaded gasoline (gplg) for small refineries during the period November 1, 1982, to June 30, 1983. In order to fill this regulatory vacuum, EPA is reinstating the lead content standards previously applicable to the affected refineries. Small refineries with an average total gasoline production of 5000 barrels per day or less during a compliance period will be subject to a standard of 2.65 grams of lead per gallon of total (leaded and unleaded) gasoline produced (gptg). Small refineries with an average total production of 5001 to 10,000 barrels per day during a compliance period will be subject to a standard of 2.15 gptg.

**DATES:** Compliance periods for these standards are November 1, 1982, to January 31, 1983, and February 1, 1983, to June 30, 1983. This rule is effective February 1, 1983.

**FOR FURTHER INFORMATION CONTACT:** Robert E. Kenney, Senior Staff Attorney, Field Operations and Support Division (EN-397), EPA, 401 M Street, S.W., Washington, D.C. 20460. Telephone (202) 382-2633.

**SUPPLEMENTARY INFORMATION:** On October 29, 1982, EPA promulgated revised regulations governing the allowable lead content of leaded gasoline (47 FR 49322). These regulations established new lead content standards for gasoline produced by large refineries and small refineries, as well as for imported gasoline. Effective November 1, 1982, large refineries and importers were made subject to a lead content standard of 1.10 gplg. Small refineries were made subject to the 1.10 gplg

standard starting on July 1, 1983, with an interim standard of 1.90 gplg for the November 1, 1982, to June 30, 1983, period. The eight-month interim period was designed to compensate for the period of uncertainty caused by the Agency's consideration of revisions to the lead content regulations. The small refinery definition was also significantly revised, resulting in a substantial decrease in the number of qualifying facilities. Finally, the regulations were revised to permit all refineries and importers to average their lead usage with each other.

Petitions to review the regulations were filed pursuant to 307 of the Clean Air Act, 42 U.S.C. 7607, by the Small Refiner Lead Phase-Down Task Force (SRTF), Plateau Incorporated, and Simmons Oil Company. These petitioners challenged various portions of the promulgated regulations, including the interim and permanent small refinery standards and the small refinery definition. Oral arguments were presented on the petitions on January 17, 1983, before the U.S. Court of Appeals for the District of Columbia Circuit.

On January 26, 1983, the Court issued an order concerning the challenges to the regulations presented by SRTF and Plateau (a decision on the Simmons challenge was deferred pending receipt of briefs on the issue raised by Simmons). With one exception, the Court upheld the regulations in their entirety as within EPA's statutory authority, not arbitrary, capricious, or an abuse of discretion, and not procedurally flawed. The exception was that the Court found the interim 1.90 gplg standard for small refineries defective because EPA did not give adequate notice that it might immediately require these facilities to significantly reduce lead use. In addition, the Court found that there was inadequate evidence in the record to support EPA's belief that averaging of lead usage among refineries would occur fast enough and extensively enough to materially assist the small refiners in meeting the 1.90 gplg interim standard, and that EPA was not warranted in factoring such a scheme into its decision to impose that standard. As a result, the Court vacated that part of 40 CFR 80.20(b)(1)(i) that required small refineries to limit the lead content of leaded gasoline to 1.90 gplg for gasoline production not exceeding the refinery's historic production level. The Court left in effect the portion of that regulatory provision which required that leaded gasoline produced in excess of a refinery's historic production level may not exceed 1.10 gplg during the interim period.

The Court also addressed the issue of whether the prior lead content regulation should continue in effect for the interim period or whether its action would leave no regulation in effect for small refineries, as defined in the October 29, 1982, final rule. Because the prior standard of 0.50 gptg, which would have become effective on November 1, 1982, for small refineries, would be more stringent than either a 1.90 gplg or 1.10 gplg standard, the Court determined that its action would leave no regulation in effect for the interim period. However, the Court noted, "The unexpected nature of this regulatory vacuum, plus the public health danger posed by unrestricted lead use and the absence of any unfairness to small refiners in such a course of action, would justify EPA in immediately promulgating a temporary lead content regulation which does not require small refiners to reduce lead use to a level significantly below previous lead-use levels \* \* \*. We will delay issuing the mandate in this case until Wednesday, February 2, 1983, to give EPA an opportunity to promulgate such an emergency rule that would become effective as of that date."

In this action, EPA is taking advantage of the opportunity provided by the Court's delay in issuing its mandate to promulgate immediately-effective lead content standards for small refineries to cover the interim eight-month period. As noted by the Court, the public interest in regulating the use of this hazardous substance is compelling even for this relatively short period of time. This rulemaking action generally reinstitutes the lead content standards previously applicable to affected facilities prior to November 1, 1982. Those small refineries with an average daily gasoline production of 5,000 barrels or less during a compliance period will be subject to a standard of 2.65 gptg. Those with an average daily production of 5,001 to 10,000 barrels during a compliance period will be subject to a standard of 2.15 gptg. Since these are the identical standards previously applicable to these facilities, they will not require any reduction in lawful lead usage by small refineries and therefore are fully consistent with the Court's order.

The historic production limit in 40 CFR 80.20(b)(1)(i) will remain in effect. This means that a refinery will be able to include only up to its historic production level of leaded gasoline in calculating compliance with the new 2.15 gptg and 2.65 gptg standards. To determine compliance during a compliance period, the amount of lead used in a refinery's production of leaded

gasoline, up to its historic production level, would be divided by the sum of its total unleaded gasoline production and its total leaded gasoline production (up to the historic leaded gasoline production level). Any leaded gasoline production in excess of its historic leaded gasoline production level would be subject to a 1.10 gplg standard. For example, assume that a refinery's historic production level, as defined in § 80.20(b)(1)(i)(D) <sup>1</sup> is 10,000,000 gallons of leaded gasoline, and that its production during a compliance period is 15,000,000 gallons of leaded gasoline and 7,500,000 gallons of unleaded gasoline. Compliance with the applicable "pooled" standard would be measured by dividing the lead used in the production of 10,000,000 gallons of leaded gasoline by 17,500,000 gallons (10,000,000 gallons of leaded plus 7,500,000 gallons of unleaded gasoline). The additional 5,000,000 gallons of leaded gasoline produced in the compliance period would be subject to a 1.10 gplg standard, determined by dividing the lead used in its production by its gallonage.

In order to limit increased lead usage that might occur as a result of the two compliance periods originally promulgated in 40 CFR 80.20(b)(1)(i), the Agency is today establishing somewhat different compliance periods within the eight-month period of the interim standards. The first compliance period is November 1, 1982 to January 31, 1983. Refineries that intended to comply with the 1.90 gplg standard for the initial five-month compliance period under the vacated regulation should be easily able to meet the total gasoline standards for this new first compliance period. The second compliance period is February 1, 1983, to June 30, 1983. Starting on July 1, 1983, the distinction in these regulations between large and small refineries will no longer be applicable, and all refineries will be subject to a 1.10 gplg standard.

Minor changes have also been made to certain other provisions in the regulations as the result of adoption of a "pooled" standard for the interim period. These include provisions related to the calculation of compliance with the interim standards (§ 80.20(b)(2)), reporting requirements (§ 80.20(b)(3)), and averaging (§ 80.20(d)(1) and (2)). Small refiners utilizing averaging during the interim period will be permitted to show compliance through this method with either the applicable pooled

<sup>1</sup>In order to remove an unintended complexity, the definition of "historic production level" has been revised so as to be solely based on gallonage.

standard or the 1.10 gplg standard (if leaded gasoline production exceeds the historic production level), or both. See § 80.20(d)(2)(v).

The final actions described in this notice are made under the authority of Sections 211 and 301 of the Clean Air Act and are nationally applicable. Under section 307(b)(1) of the Clean Air Act, judicial review may be sought only in the United States Court of Appeals for the District of Columbia Circuit. Petitions for judicial review must be filed on or before April 11, 1983.

EPA finds that there is "good cause" under the Administrative Procedure Act, 5 U.S.C. 553 (b) and (d), to promulgate this rule without prior notice and public comment, and to make this rule effective immediately. "Good cause" exists because it would be contrary to the public interest to have a period in which a large number of refineries are not subject to any restraints on lead usage. The Agency has found that there is a continued need for the control of lead in gasoline and that further action by EPA to reduce lead in gasoline is a prudent and reasonable course of action to take in order to protect public health (47 FR 49330). Failure to establish an immediately-effective standard would be contrary to the public interest in limiting emissions of this hazardous substance. In addition, because this rule is less restrictive for small refineries than the previous regulation and therefore "relieves a restriction," "good cause" exists within the meaning of 5 U.S.C. 553(d).

The Regulatory Flexibility Act, 5 U.S.C. 601 et seq., requires the preparation of a regulatory flexibility analysis for any final rule unless the Administrator certifies that the rule will not have a significant impact on a substantial number of small entities. Since this final rule essentially reinstitutes the lead content standards in effect prior to November 1, 1982, for the affected small refineries, and is actually less burdensome than the interim standard vacated by the Court, I certify that this rule will not have a significant impact on a substantial number of small entities.

EPA has determined that this rule is not a major rule as defined in Executive Order 12291. Therefore, a regulatory impact analysis has not been prepared. Because the order of the Court of Appeals contemplates an emergency rule by February 2, 1983, it is impracticable for the Agency to submit the rule for review by the Office of Management and Budget prior to promulgation under Executive Order 12291, and the rule is thereby exempt from prior review under Section 8(a) of

the Executive Order. A copy of the rule has been transmitted to the Office of Management and Budget.

#### List of Subjects in 40 CFR Part 80

Fuel additives, Gasoline, Motor vehicle pollution, Penalties.

(Secs. 211 and 301(a) of the Clean Air Act, as amended (42 U.S.C. 7545 and 7601(a))

Dated: February 1, 1983.

Anne M. Gorsuch,  
Administrator.

#### PART 80—[AMENDED]

For the reason set forth in the preamble, § 80.20 of Title 40 of the Code of Federal Regulations is amended by revising paragraphs (b)(1)(i), (b)(2), (b)(3), (d)(1)(ii) and (d)(2)(iv) and by adding new paragraphs (d)(2)(v) and (d)(2)(vi) to read as follows:

#### § 80.20 Controls applicable to gasoline refiners.

\* \* \* \* \*

(b) \* \* \*  
(1) \* \* \*

(i)(A) Produce gasoline whose lead content during a compliance period exceeds 2.65 grams of lead per gallon of gasoline produced, if such refinery produces no more than an average of 5,000 barrels or less of gasoline per day during such period. For purposes of determining compliance with this standard, only that amount of leaded gasoline produced in such period up to the refinery's historic production level shall be included.

(B) Produce gasoline whose lead content during a compliance period exceeds 2.15 grams of lead per gallon of gasoline produced, if such refinery produces an average of 5,001 to 10,000 barrels of gasoline per day during such period. For purposes of determining compliance with this standard, only that amount of leaded gasoline produced in such period up to the refinery's historic production level shall be included.

(C) For purposes of paragraphs (b)(1)(i) (A) and (B), the compliance periods are November 1, 1982, to January 31, 1983, and February 1, 1983, to June 30, 1983.

(D) For purposes of paragraphs (b)(1)(i) (A) and (B), "historic production level" means the average number of gallons of leaded gasoline produced each day during the period July 1, 1981 to June 30, 1982, multiplied by the number of days in the compliance period (and then rounded to the nearest thousand gallons). The average lead content of that amount of leaded gasoline produced during each compliance period in excess of the

historic production level may not exceed 1.10 grams per gallon.

\* \* \* \* \*

(2)(i) Except as provided in paragraph (d)(1) of this section, compliance with the requirements of paragraph (b)(1)(i) (A) or (B) shall be determined by dividing the total grams of lead used in the production of leaded gasoline at a small refinery (up to its historic production level) during a compliance period by the sum of the total gallons of unleaded gasoline plus the total gallons of leaded gasoline (up to the historic production level) produced at the small refinery in the same compliance period.

(ii) In the event that a small refinery produces more leaded gasoline than its historic production level, except as provided in paragraph (d)(1) of this section, compliance with the requirements of paragraph (b)(1)(i)(D) shall be determined by dividing the total grams of lead used in the production of leaded gasoline in excess of a refinery's historic production level during a compliance period by the total gallons of such leaded gasoline produced at the small refinery in the same compliance period.

(iii) Except as provided in paragraph (d)(1) of this section, compliance with the requirements of paragraph (b)(1)(ii) shall be determined by dividing the total grams of lead used in the production of leaded gasoline at a small refinery during a compliance period by the total gallons of leaded gasoline produced at the small refinery in the same compliance period.

(3) A refiner shall submit reports for each small refinery as specified in paragraph (a)(3) of this section. As an additional part of such reports for the compliance periods specified in paragraph (b)(1)(i)(C), a refiner shall submit the following information for each small refinery.

(i) The total gallons of leaded gasoline produced during the period July 1, 1981, to June 30, 1982;

(ii) The average lead content of gasoline produced during the compliance period, as determined pursuant to paragraph (b)(2)(i); and

(iii) The average lead content of leaded gasoline produced in excess of the historic production level (if any), as determined pursuant to paragraph (b)(2)(ii).

\* \* \* \* \*

(d) \* \* \*  
(1) \* \* \*

(ii) The average constructive lead content of gasoline produced in a compliance period by each small refinery prior to July 1, 1983, does not

exceed the level(s) specified in paragraph (b)(1)(i) of this section; and

(2) \* \* \*

(iv) For each refinery that is not a small refinery and for each small refinery after July 1, 1983, the constructive average lead content of leaded gasoline produced by the reporting refinery during the compliance period, as determined by dividing the total grams of lead indicated in paragraph (d)(2)(iii) by the total gallons of leaded gasoline produced by the reporting refinery during the compliance period.

(v) For each small refinery prior to July 1, 1983, the constructive average lead content of gasoline produced by the reporting refinery during the compliance period. In determining such constructive average lead content, the total grams of lead indicated in paragraph (d)(2)(iii) may be allocated in any manner by the refiner to the calculation of the total gasoline average pursuant to paragraph (b)(2)(i) and/or the leaded gasoline average pursuant to paragraph (b)(2)(ii), so long as the number of grams of lead so allocated is equal to the total grams of lead indicated in paragraph (d)(2)(iii).

(vi) When compliance is demonstrated pursuant to paragraph (d)(1) by more than one refiner, each such report shall also include supporting documentation adequate to show the agreement of all such refiners to the constructive allocation of lead usage stated in the report.

[FR Doc. 83-3193 Filed 2-7-83; 8:45 am]

BILLING CODE 6560-50-M

#### 40 CFR Part 80

[AMS FRL 2290-1]

#### Regulation of Fuels and Fuel Additives; Correction

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; correction.

**SUMMARY:** This document corrects minor errors in a final rule regulating the lead content of leaded gasoline, which was published on October 29, 1982 (47 FR 49322-34).

**FOR FURTHER INFORMATION CONTACT:** Robert E. Kenney, Senior Staff Attorney, Field Operations and Support Division, (202) 382-2659.

**SUPPLEMENTARY INFORMATION:** The final lead phasedown regulations, published on October 29, 1982, contained

typographical errors in 40 CFR 80.20(a)(3)(xi) and (b)(1). 47 FR 49332-3. In addition, the regulations failed to indicate that a legal citation in a portion of the small refinery definition (40 CFR 80.2(p)(4)) referred to a reporting requirement under the previous regulations. The notice also inadvertently omitted a clarifying phrase in 40 CFR 80.20(a)(3)(xi). 47 FR 49333. This correction notice rectifies these errors.

In addition, the preamble to the regulations incorrectly stated that the information collection provisions in the regulations are not effective until approved by the Office of Management and Budget (OMB) pursuant to the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. 47 FR 49322. This statement is correct for new reporting requirements established by the regulations (40 CFR 80.20(a)(3), (b)(3), (c)(3), and (d)(2)). However, the reporting requirement applicable to certain refineries for the month of October 1982 or the calendar quarter October to December 1982 (40 CFR 80.20(a)(4)) is a continuation of the reporting requirements under the previous lead phasedown regulations, which have already been approved by OMB under the Paperwork Reduction Act and assigned OMB control number 2000-0041. Therefore, the reporting requirement in 40 CFR 80.20(a)(4) was effective November 1, 1982.

Dated: January 28, 1983.

Anne M. Gorsuch,  
Administrator.

#### PART 80—[CORRECTED]

Accordingly, 40 CFR Part 80 is corrected as follows:

##### § 80.2 [Corrected]

1. In 40 CFR 80.2(p)(4), a footnote is added after the reference to § 80.20(b)(2) to read as follows: "The citation to § 80.20(b)(2) relates to the former small refinery reporting requirements codified in that paragraph prior to the October 29, 1982 (47 FR 49333), amendments to that paragraph. The reporting requirements for small refineries are now found in 40 CFR 80.20(b)(3).

##### § 80.20 [Corrected]

2. In 40 CFR 80.20(a)(3)(xi), the reference to "paragraph (a)(3)(ix)" is changed to "paragraph (a)(3)(x)", and the phrase "the total grams of lead in each product so transferred," is added after the phrase "the total gallons of each product so transferred,".

3. 40 CFR 80.20(b)(1) is revised to read, "In the production of gasoline at a small refinery (as defined in § 80.2(p)), a refiner shall not: \* \* \*."

[FR Doc. 83-2873 Filed 2-2-83; 8:45 am]

BILLING CODE 6560-50-M

#### 40 CFR Part 81

[KY-012; A-4-FRL 2290-3]

#### Designation of Areas for Air Quality Planning Purposes; Kentucky; Redesignation of Muhlenberg County for TSP

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** EPA today approves a request by Kentucky to redesignate Muhlenberg County as attainment for the primary total suspended particulate (TSP) standards. This action responds to the State's request to redesignate the area based upon eight (8) consecutive quarters of ambient data that indicates attainment of the primary standard. The area continues to be designated nonattainment for the secondary TSP standard.

**EFFECTIVE DATE:** This action will be effective April 11, 1983, unless notice is received within 30 days that someone wishes to submit adverse or critical comments.

**ADDRESS:** Written comments should be addressed to Melvin Russell of EPA Region IV's Air Management (see EPA Region IV address below). Copies of the material submitted by Kentucky in support of the redesignation may be examined during normal business hours at the following locations:

Public Information Reference Unit,  
Library Systems Branch,  
Environmental Protection Agency, 401  
M Street, SW, Washington, D.C.  
20460.  
Air Management Branch, Environmental  
Protection Agency, Region IV, 345  
Courtland Street, NE, Atlanta, Georgia  
30365.  
Kentucky Natural Resources and  
Environmental Protection Cabinet,  
Division of Air Pollution Control, 18  
Reilly Road, Building #2 Ft. Boone  
Plaza, Frankfort, KY 40601.

**FOR FURTHER INFORMATION CONTACT:** Melvin Russell, EPA Region IV, Air Management Branch, at the Region IV address above or call 404/881-3286 or (FTS 257-3286).

**SUPPLEMENTARY INFORMATION:** The primary TSP nonattainment designation for Muhlenberg County, Kentucky was based on monitored violations of the TSP national ambient air quality standards (NAAQS). On November 18, 1982, the Kentucky Natural Resources and Environmental Protection Cabinet submitted a redesignation request to change the TSP attainment status of Muhlenberg County. The submittal included ten consecutive quarters of current ambient data that demonstrated attainment of the primary TSP NAAQS. The data includes the period of January 1980 through June 1982. EPA requires eight consecutive quarters of current data. Muhlenberg County will remain nonattainment for the secondary TSP NAAQS.

EPA has reviewed the Kentucky data for representativeness, quality and quantity, and found it acceptable.

**Action:** EPA today redesignates Muhlenberg County, Kentucky from nonattainment to attainment for the primary TSP NAAQS. This action is taken without prior proposal because the basis for the redesignation (ambient monitoring data) is straightforward and noncontroversial; moreover, this action will not affect air quality or impose additional requirements on industry. We do not anticipate public comments on this action.

This action will be effective 60 days from the date of this *Federal Register* notice. However, if we receive notice within 30 days that someone wishes to submit critical comments, we will withdraw this action and will publish two subsequent notices before the effective date. One notice will withdraw the final action and the other will begin a new rulemaking by announcing a proposal of the action and establishing a comment period.

Under 5 U.S.C. 605(b), the Administrator has certified that area redesignations do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by [60 days from today]. This action may not be challenged later in proceedings to enforce its requirements. (See 307(b)(2).)

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

#### List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Sec. 107 of the Clean Air Act (42 U.S.C. 7407))

Dated: January 28, 1983.

Anne M. Gorsuch,  
Administrator.

#### PART 81—[AMENDED]

Part 81 of Chapter I, Title 40, Code of Federal Regulations, is amended as follows:

#### § 81.318 Kentucky.

Designated area	Does not meet primary standards	Does not meet secondary standards	Cannot be classified	Better than national standards
Kentucky—TSP				
Muhlenberg County.....		X		

[FR Doc. 83-3293 Filed 2-7-83; 8:45 am]

BILLING CODE 6560-50-M

#### 40 CFR Part 81

[TN-003; A-4-FRL 2292-5]

#### Designation of Areas for Air Quality Planning Purposes; Tennessee: Redesignation of Particulate Area

**AGENCY:** Environmental Protection Agency.

**ACTION:** Final rule.

**SUMMARY:** On October 25, 1982 (47 FR 47248), EPA announced that it was granting a request made by Tennessee for the redesignation of a portion of Roane County within the Clymersville section of Rockwood from attainment to unclassifiable for particulates. This action was a result of adoption by the Tennessee Air Pollution Control Board of the indicated designation. EPA subsequently received adverse comments on the redesignation. Accordingly, the Agency is withdrawing the redesignation. Elsewhere in today's *Federal Register*, EPA is proposing the redesignation and providing an opportunity to comment on the proposal.

**DATE:** This action is effective on February 8, 1983.

**ADDRESSES:** Copies of the materials submitted by Tennessee may be examined during normal business hours at the following locations:

Public Information Reference Unit,  
Library Systems Branch,  
Environmental Protection Agency, 401  
M Street, SW., Washington, D.C.  
20460

Air Management Branch, Environmental  
Protection Agency, Region IV, 345

#### Subpart C—Section 107 Attainment Status Designations

In § 81.318, the "Kentucky—TSP" table is amended by removing the notation which indicates nonattainment of the primary standards in Muhlenberg County. As amended, the entry for this area reads as follows:

Courtland Street, NE., Atlanta, GA  
30365

Tennessee Department of Public Health,  
150 9th Avenue North, Nashville,  
Tennessee 37203.

**FOR FURTHER INFORMATION CONTACT:**  
Raymond S. Gregory, EPA Region IV,  
Air Management Branch at the Region  
IV address above or call 404/881-3286  
or FTS 257-3286.

**SUPPLEMENTARY INFORMATION:** On January 27, 1982, the Tennessee Air Pollution Control Board changed the attainment status of that portion of Roane County within the Clymersville section of Rockwood to unclassifiable for total-suspended particulate matter (TSP) in relation to the National Ambient Air Quality Standard (NAAQS). Based on the information submitted, EPA, without prior proposal of its action, changed the attainment status designation of this area from attainment to unclassifiable (47 FR 47248 October 25, 1982).

In the final rule making the redesignation, EPA advised the public that the effective date of the action was deferred for 60 days (until December 25, 1982) to provide an opportunity to submit comments on it. EPA announced that if notice were received within 30 days of the publication of the final rule that someone wanted to submit adverse or critical comments, the final action would be withdrawn and a new rulemaking would be begun by proposing the action and establishing a 30-day comment period. EPA had earlier published a general notice explaining this special procedure (46 FR 44477, September 4, 1981).

EPA has received adverse comments on this redesignation. Accordingly, the Agency is today withdrawing it.



Elsewhere in today's Federal Register, EPA is proposing the redesignation requested by Tennessee and soliciting comment on the proposal.

EPA is withdrawing this action without providing prior notice and opportunity for comment. The Agency finds that it has good cause within the meaning of 5 U.S.C. 553(b) to proceed without notice and comment. Notice and comment would be impracticable in this case because EPA needs to withdraw its redesignation as quickly as possible in order to consider the comments which the public has submitted or may wish to submit. Moreover, further notice is not necessary because EPA has already informed the public that it would follow this procedure if it received a request for an opportunity to comment. For the same reasons, EPA finds that it has good cause under 5 U.S.C. 553(d) to make this withdrawal immediately effective.

Under Section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by April 11, 1983.

Pursuant to the provisions of 5 U.S.C. 605(b) I hereby certify that the present rule will not have significant economic impact on a substantial number of small entities.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

#### List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Sec. 107 of the Clean Air Act (42 U.S.C. 7407))

Dated: February 1, 1983.

Anne M. Gorsuch,  
Administrator.

#### PART 81—[AMENDED]

Part 81 of Chapter I, Title 40, Code of Federal Regulations is amended as follows:

#### Subpart C—Section 107 Attainment Status Designation

##### § 81.343 [Amended]

In the Tennessee-TSP table of § 81.343, the entry for "That portion of Roane County within the Clymersville section of Rockwood" is removed.

[FR Doc. 83-3205 Filed 2-7-83; 8:45 am]

BILLING CODE 6560-50-M

#### 40 CFR Part 761

[OPTS-62024B; BH-FRL No. 2277-8]

#### Polychlorinated Biphenyls (PCB's) Manufacturing, Processing, Distribution in Commerce and Use Prohibitions; Incorporations by Reference Revisions

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** This final rule incorporates by reference in EPA's Polychlorinated Biphenyls (PCBs) regulations certain revised test methods of the American Society for Testing and Materials (ASTM). These revisions are new methodology to be used in meeting the requirements of these PCB regulations.

**DATES:** This final rule is effective February 8, 1983.

**FOR FURTHER INFORMATION CONTACT:** Chris Tirpak, Acting Director, Industry Assistance Office (TS-799), Office of Toxic Substances, Environmental Protection Agency, Rm. E-511, 401 M St., SW., Washington, DC, 20460. Toll Free: (800-424-9065), In Washington, D.C.: (554-1404), Outside the USA: (Operator-202-554-1404).

**SUPPLEMENTARY INFORMATION:** In the Federal Register of May 21, 1982 (47 FR 22123), EPA proposed to amend 40 CFR 761.60 and 761.75 to provide that testing methodologies revised by the ASTM be used in meeting certain requirements of regulations affecting Polychlorinated Biphenyls (PCBs).

The designations of the revised methodologies and the equivalent old methodologies are as follows:

Old Designations	New Designations
ASTM D93-77	ASTM D93-80
ASTM D482-74	ASTM D482-80
ASTM D524-76	ASTM D524-81
ASTM D808-83	ASTM D808-81
ASTM D923-75	ASTM D923-81
ASTM D1266-70	ASTM D1266-80
ASTM D2158-65	ASTM D2158-80
ASTM D2784-70	ASTM D2784-80
ASTM D3278-73	ASTM D3278-78

The comment period ended June 21, 1982. To insure all interested persons an adequate opportunity to evaluate and comment on the proposed methodologies EPA announced reopening of the comment period in the Federal Register of July 13, 1982 (47 FR 30270). This second comment period ended August 12, 1982.

Neither comment period elicited comments of a substantive nature. The amendments are therefore adopted as proposed.

#### Executive Order 12291

Under Executive Order 12291, issued February 17, 1981, EPA must judge whether a rule is a "major rule" and, therefore, subject to the requirement that a Regulatory Impact Analysis be prepared. EPA has determined that this rule is not a major rule as the term is defined in section 1(b) of the Executive Order. Therefore, EPA has not prepared a Regulatory Impact Analysis for this rule.

EPA has concluded that this final rule is not "major" under the criteria of section 1(b) because the annual effect of the rule on the economy will be less than \$100 million; it will not cause a major increase in costs or prices for any sector of the economy or for any geographic region; and it will not result in any significant adverse effects in competition, employment, investment, productivity, or innovation, or on the ability of United States enterprises to compete with foreign markets. In fact, this rule simply provides for updating analytical test methodology to the state of the art. This rule was submitted to the Office of Management and Budget for review as required by E.O. 12291.

#### Regulatory Flexibility Act

Under section 605(b) of the Regulatory Flexibility Act, the Administrator may certify that a rule will not, if promulgated, have a significant impact on a substantial number of small entities, and therefore does not require a regulatory flexibility analysis. This rule merely updates certain American Society for Testing and Materials (ASTM) test methods cited in the PCB regulations to current ASTM standards. In fact, this revision will bring the analytical methods cited in the PCB regulations to the state of the art. Since no negative economic effect is expected upon any business entity from the promulgation of this rule, I certify that this rule will not have a significant economic impact on small entities.

#### Paperwork Reduction Act

EPA has determined that the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, does not apply to this Final Rule since no information collection or recordkeeping are involved.

(Sec. 6, 90 Stat. 2020, (15 U.S.C. 2065))

#### List of Subjects in 40 CFR Part 761

Environmental protection, Hazardous materials, Labeling, Polychlorinated biphenyls, Recordkeeping and reporting requirements, Incorporation by reference.

Dated: December 21, 1982.

John A. Todhunter,  
Assistant Administrator for Pesticides and  
Toxic Substances.

# **PART 761—[AMENDED]**

Therefore, Part 761 of Chapter I of Title 40, Subchapter R, is amended as follows:

1. In § 761.19, the entries for ASTM methods D-524, D-808, and D-923 in paragraph (b) are revised to read as follows:

## **§ 761.19 References.**

* * *	
(b) * * *	
* * *	
CFR citation	
* * *	
ASTM D-524-81 Standard Test Method for Ramsbottom Carbon Residue of Petroleum Products.	§ 761.60(a)(3)(iii)(B)(6).
ASTM D-808-81 Standard Test Method for Chlorine in New and Used Petroleum Products (Bomb Method).	§ 761.60(a)(3)(iii)(B)(6).
ASTM D-923-81 Standard Test Method for Sampling Electrical Insulating Liquids.	§ 762.60(g)(1)(ii); § 761.60(g)(2)(ii).
* * *	

2. In § 761.60, paragraph (a)(3)(iii)(B)(6) and paragraph (g)(1)(ii) and (2)(ii) are revised as follows:

## **§ 761.60 Disposal requirements.**

(a) \* \* \*

(3) \* \* \*

(iii) \* \* \*

(B) \* \* \*

(6) The concentration of PCBs and of any other chlorinated hydrocarbon in the waste and the results of analyses using the American Society of Testing and Materials (ASTM) methods as follows: carbon and hydrogen content using ASTM D-3178-73 (reapproved 1979), nitrogen content using ASTM E-258-67, sulfur content using ASTM D-2784-80, D-1266-80, or D-129-64, chlorine content using ASTM D-808-81, water and sediment content using either ASTM D-2709-68 or D-1796-68, ash content using D-482-80, calorific value using ASTM D-240-76 (reapproved 1980), carbon residue using either ASTM D-2158-80 or D-524-81, and flash point using ASTM D-93-80.

\* \* \*

(g) \* \* \*

(1) \* \* \*

(ii) For purposes of complying with the marking and disposal requirements, representative samples may be taken from either the common containers or the individual transformers to determine the PCB concentration, *Except that* if any PCBs at a concentration of 500 ppm

or greater have been added to the container the total container contents must be considered as having a PCB concentration of 500 ppm or greater for purposes of complying with the disposal requirements of this subpart. For purposes of this paragraph, representative samples of mineral oil dielectric fluid are either samples taken in accordance with American Society of Testing and Materials method D-923-81 or samples taken from a container that has been thoroughly mixed in a manner such that any PCBs in the container are uniformly distributed throughout the liquid in the container.

(2) \* \* \*

(ii) For purposes of complying with the marking and disposal requirements, representative samples may be taken from either the common container or individual containers to determine the PCB concentration *Except that* if any PCBs at a concentration of 500 ppm or greater have been added to the container then the total container contents must be considered as having a PCB concentration of 500 ppm or greater for purposes of complying with the disposal requirements of this subpart. For purposes of this subparagraph, representative samples of waste oil are either samples taken in accordance with American Society of Testing and Materials D-923-81 method or samples taken from a container that has been thoroughly mixed in a manner such that any PCBs in the container are uniformly distributed throughout the liquid in the container.

3. In § 761.75, paragraph (b)(8)(iii) is revised to read as follows:

## **§ 761.75 Chemical waste landfills.**

\* \* \*

(b) \* \* \*

(8) \* \* \*

(iii) Ignitable wastes shall not be disposed of in chemical waste landfills. Liquid ignitable wastes are wastes that have a flash point less than 60 degrees C (140 degrees F) as determined by the following method or an equivalent method: Flash point of liquids shall be determined by a Pensky-Martens Closed Cup Tester, using the protocol specified in ASTM Standard D-93-80, or the Setaflash Closed Tester using the protocol specified in ASTM Standard D-3278-78.

\* \* \*

[FR Doc. 83-3291 Filed 2-7-83; 8:45 am]

BILLING CODE 6560-50-M

## **DEPARTMENT OF HEALTH AND HUMAN SERVICES**

### **Health Care Financing Administration**

#### **42 CFR Part 431, 435, 436, 440, and 447**

#### **Medicaid Program; Imposition of Cost Sharing Charges Under Medicaid**

**AGENCY:** Health Care Financing Administration (HCFA), HHS.

**ACTION:** Final rule with comment period.

**SUMMARY:** This final rule revises regulations concerning imposition of cost sharing amounts on Medicaid recipients. Section 131 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248) amended the Medicaid cost sharing requirements. This final rule revises the Medicaid regulations to remove the prohibition on States from imposing deductibles, coinsurance or copayments on categorically or medically needy individuals with certain exceptions. Under the law, States are precluded from imposing such charges with respect to services furnished to individuals under 18, services furnished to pregnant women, if the services relate to the pregnancy, or to any condition which may complicate the pregnancy, and services furnished to certain institutionalized patients who are required to spend all of their income for medical care costs except for a personal needs allowance. The law also prohibits imposition of deductions, cost sharing or similar charges on emergency services, and family planning services and supplies to any individual. Finally, services furnished by a health maintenance organization (HMO) to a categorically needy individual who is enrolled in the HMO are also exempt from cost sharing. States may also exempt medically needy HMO enrollees if they desire. The law also establishes a waiver authority under which cost-sharing amounts may be increased for nonemergency services in hospital emergency rooms. This rule reflects these changes in the law.

**DATES:** The rules are amended as of February 8, 1983. See section II.E. of the preamble for discussion of effective date.

**Comment date:** Although these regulations are final, comments may be submitted. To assure consideration, comments should be mailed by April 11, 1983.

**ADDRESS:** Address comments in writing to: Administrator, Health Care Financing Administration, Department of Health and Human Services, P.O. Box 17076, Baltimore, Maryland 21235.



In commenting, please refer to BPP-509-FC.

If you prefer, you may deliver your comments to Room 309-G Hubert H. Humphrey Building, 200 Independence Ave., S.W., Washington, D.C., or to Room 132, East High Rise Building, 6325 Security Boulevard, Baltimore, Maryland.

Comments will be available for public inspection, beginning approximately two weeks after publication, in Room 309-G of the Department's offices at 200 Independence Ave., S.W., Washington, D.C. 20201, on Monday through Friday of each week from 8:30 a.m. to 5:00 p.m. (202-245-7890).

**FOR FURTHER INFORMATION CONTACT:** Marinos Svolos, (301) 594-9051.

**SUPPLEMENTARY INFORMATION:**

**I. General Background**

*A. Legislative History*

The original Medicaid legislation prohibited the imposition of any cost sharing for inpatient hospital services for all Medicaid eligibles. Cost sharing arrangements that were related to income and resources were permitted on any other service for both the categorically and medically needy. The 1967 amendments to the Social Security Act (section 235 of Pub. L. 90-248) amended the original legislation by permitting cost sharing for any services for the medically needy including inpatient hospital services. However, all cost sharing on services furnished to the categorically needy became prohibited.

The 1972 amendments to the Social Security Act (section 208(a) of Pub. L. 92-603) changed the cost sharing rules. Instead of exempting the categorically needy totally from all cost sharing the law permitted States to impose copayments on all optional services. Copayments on required services and enrollment fees for the categorically needy continued to be prohibited. The 1972 amendments also made imposition of enrollment fees on medically needy mandatory but this requirement was repealed by section 9(a) of Pub. L. 93-368, effective January 1, 1973 without being implemented. Thus, all services to the medically needy could be subject to either type of cost sharing at the State's option. The only direction in the law regarding cost sharing amounts was that they must be in accordance with the Secretary's standards of what is nominal for copayment charges, and, in the case of enrollment fees, must be related to income.

*B. Program Experience*

In 1973, we published regulations implementing the 1972 amendments on

cost sharing. (These regulations are set forth at 42 CFR 447.50-447.59.) These regulations established the basic requirements that apply if a State's medical assistance plan includes cost sharing, and set forth the scope of the State's options. Additionally, the regulations implemented the statutory requirements that copayments be nominal, by setting maximum deductible, coinsurance, and copayment amounts, and that premiums or enrollment fees be income-related, by setting out both minimum and maximum dollar amounts for monthly enrollment fees. These amounts have remained unchanged since 1973. Additionally, the regulations specify that copayment charges imposed may be related to income as long as they do not exceed the maximum amounts set forth in 42 CFR 447.54.

Because these rules prohibited imposition of both types of cost sharing on the majority of Medicaid recipients (approximately 74 percent of Medicaid recipients are categorically needy), States have often identified the cost sharing regulations as one of the most troublesome barriers to efficient program administration. In addition, since a large portion of services furnished were excluded, cost sharing could not be used as an effective means of utilization control.

*C. 1982 Legislation*

On September 3, 1982, the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248) was enacted. Section 131 of the Act amended the Medicaid law by removing the previous restrictions on imposition of copayments on required services for categorically needy eligibles. Instead, section 131 added a new section 1916 to Title XIX entitled "Use of Enrollment Fees, Premiums, Deductions, Cost Sharing, and Similar Charges".

Under section 131 States may now impose deductibles, coinsurance, copayments, or similar cost sharing charges on most services furnished to categorically needy, as well as medically needy individuals. However, the restriction against the use of cost sharing in the form of enrollment fees and premiums was retained for categorically needy individuals.

The legislation prohibits imposition of deductions, cost sharing or similar charges on certain recipients, whether categorically or medically needy, i.e., individuals under 18 and those institutionalized individuals who are required to spend all of their income (except for a minimal personal needs allowance) for medical care costs. Additionally, cost sharing is precluded

for certain types of services, such as those related to pregnancy, emergency services, and family planning services. Finally, services provided by a health maintenance organization (HMO) to categorically needy individuals enrolled in the HMO are also excluded from cost sharing. States may further exclude cost copayments for HMO services furnished to medically needy enrollees, if they desire. They may also exclude individuals under 21, 20 or 19 (rather than just 18) from cost sharing, or exclude from cost sharing all services to pregnant women.

The amendment further requires that copayments be nominal, and that no provider participating under Medicaid deny medical care to an individual because of his inability to pay the assessed cost sharing amount. (The right of access to medical care does not extinguish, however, the recipient's liability for the cost sharing payment.)

1. *Nominal Charges.*—Section 1916 provides that any copayment imposed by the State must be nominal in amount. (However, the amendment provides for waiver of this requirement for nonemergency services furnished in hospital emergency rooms, as discussed in item 2. below.) The legislation references the current maximum cost sharing charges that are contained in current regulations, 42 CFR 447.54. Further, the amendment specifies that if the current definition of nominal is changed, the new definition must take into account the level of cash assistance provided by the State.

We are not making any revisions to the current nominal amounts at this time. However, since the current nominal amounts were established in 1973, we plan to consider revisions to the definition of nominal and invite public comment on this issue. We will issue any proposed revisions as a Notice of Proposed Rulemaking for specific public comment if we decide to revise the definition at a later date.

2. *Waiver of Nominal Amounts for Nonemergency Services Furnished in Hospital Emergency Rooms.*—Under section 1916(a)(3) and (b)(3), States may impose a copayment amount up to twice the current maximum for services furnished in hospital emergency rooms that do not meet the definition of emergency services. In imposing higher copayment amounts in this circumstance, States must assure that individuals have actually available and accessible to them alternative sources of nonemergency, outpatient services. For example, alternative sources of outpatient services would include physicians or clinics participating in the

Medicaid program that are located within reasonable travel distance of the recipient.

## II. Revised Regulations

### A. Deductibles, Coinsurance, Copayment, or Similar Cost-Sharing Charges (Copayments)

As described in section I.C. of this preamble, section 131 of Pub. L. 97-248 made extensive changes in the requirements for copayment charges. Therefore, we are deleting the material currently in 42 CFR 447.53 (a) and (b) and replacing it with the requirements contained in the amended statute as described below.

1. *Services Furnished to Individuals under 18.*—States must not impose a deductible or other copayment on any services furnished to individuals under 18. If a State provides Medicaid to reasonable categories of individuals between 18 and 21 years of age, the State may also exclude copayments for these individuals.

2. *Institutionalized Individuals.*—Medicaid regulations require that State payments to institutions for care furnished to Medicaid eligible individuals be reduced by the recipients' income (42 CFR 435.725, 435.733, 435.832, and 436.832). The regulations permit institutionalized individuals to retain a personal needs allowance for personal and certain other maintenance needs. All other income must be applied to the cost of medical care of the institutionalized individual. Current regulations require that, although the personal needs allowance is protected for use by the recipient, the individual must, if necessary, use it to pay for any cost-sharing charges the State imposes under Medicaid.

Section 1916 provides that States may no longer impose cost-sharing on institutionalized individuals who are required to spend for their health care all (minus certain deductions) of their income, except for a personal needs allowance. Since current regulations state that institutionalized individuals must, if necessary, use their personal needs allowance to pay for any cost-sharing charges the State imposes, we are revising 42 CFR 435.725(c)(1)(iii), 435.733(c)(1)(iii), 435.832(c)(1)(iii), and 436.832(c)(1) to remove this requirement.

3. *Services Related to Pregnancy.*—Section 1916 precludes the imposition of copayments on services furnished to pregnant women, if these services relate to pregnancy or to other medical conditions that may complicate the pregnancy. We are specifying that these services include routine prenatal care, labor and delivery, routine post-partum

care, and complications of pregnancy or delivery likely to affect the pregnancy, such as hypertension, diabetes, and urinary tract infection. Moreover, section 1916 permits States to exclude from copayments all services furnished to pregnant women if they desire.

The Senate Finance Committee, in considering this provision, recognized that it may not be operationally feasible for States to ascertain in all cases whether recipients for whom claims are submitted were pregnant. Consequently, the report specifies the committee's intent that copayments not be imposed with respect to pregnancy-related services (or all services, if the State has decided to exclude all services) when it can be determined from the claim submitted that the recipient was pregnant (S. Rept. No. 97-494, vol. 1, 97th Cong., 2nd Sess. (1982), page 36). In keeping with the congressional intent, we are adopting the policy that this copayment exclusion need be applied only where it can be determined from the claim submitted that the recipient was pregnant.

4. *Emergency Services.*—Section 1916 excludes emergency services, as defined by the Secretary, from copayment obligations. Medicaid regulations already contain a definition for emergency services at 42 CFR 440.170(e). Emergency hospital services are defined as services that are necessary to prevent the death or serious impairment of the health of a recipient, and because of the threat to the life or health of the recipient, necessitate the use of the most accessible hospital available that is equipped to furnish the services. Under the definition, the exclusion from copayments for emergency services applies regardless of whether the emergency services are furnished on an inpatient or outpatient basis and whether the hospital otherwise participates in the Medicaid program or not. Since the present definition was developed for coverage purposes, we particularly solicit comments on whether we should revise it in the future in light of the purpose of the new cost sharing provisions.

5. *Family Planning Services.*—Section 1916 prohibits the imposition of copayments on family planning services and supplies as defined in section 1905(a)(4)(C) of the Act. These are services and supplies furnished (directly or under arrangements with others) to individuals of child-bearing age who desire family planning services and supplies.

6. *HMO Enrollees.*—Services furnished by a health maintenance organization (HMO) to categorically needy recipients enrolled in the HMO

plan are excluded from both types of cost sharing under section 1916 of the Medicaid law. States may also exclude from cost sharing all HMO services furnished medically needy recipients, if they desire, without violating the comparability requirements of section 1902(a)(10) of the Act.

7. *Comparability.*—Prior to the Tax Equity and Fiscal Responsibility Act of 1982, section 1902(a)(10) of the Social Security Act provided that medical assistance made available to any categorically needy eligible shall not be less in amount, duration, or scope than that made available to any other such individual and shall not be less in amount, scope, or duration than the medical assistance made available to any medically needy recipient. Under this requirement, imposition of a copayment on one category of Medicaid recipients for a particular service necessitated imposition of copayments for an equivalent service for all recipients in that category. However, section 131(b) of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97-248) amends this comparability provision by adding an exception in a new clause (IV) to section 1902(a)(10)(D) of the Act. This provision states that imposition of copayments on an individual who is not exempted by one of the conditions in section 1916 (a)(2) or (b)(2) shall not require the imposition of copayments on an individual who is eligible for such exemption. We are revising 42 CFR 440.250, which sets forth the limitation on comparability of services, to add this new exception. States have the option whether to impose copayments on both the categorically and medically needy. If the State decides to impose copayments, it must exclude those individuals and services outlined above. (The State also may exclude from copayments services to medically needy HMO recipients, services to individuals 18 or older but under 21, and all services furnished to pregnant women.) However, because of comparability requirements, States are precluded from exempting additional groups of individuals or services from a copayment which is imposed by the State.

### B. Clarification of Maximum Copayment Charges for Noninstitutional Services

Although we are not implementing the statutory amendment concerning revision of nominality at this time, we are including a minor clarification that is not related to the changes made by section 131 in this rule. This clarification is necessary to eliminate gaps in the

current regulations that have created confusion for the States. We believe it is more convenient for the readers to include this clarification in this revision implementing the statutory changes, even though they are unrelated, than to issue this clarification in a separate rule.

Medicaid regulations at 42 CFR 447.54(a)(3) specify maximum allowable copayment charges for noninstitutional services. The regulations currently permit copayments up to \$.50 when the State's payment for the service is \$10 or less; up to \$1 maximum copayment when the State's payment for the service is \$11 to \$25, etc. These regulations fail to provide guidance for maximum copayments when the State's payment for services is between whole dollar amounts for each maximum charge such as between \$10 and \$11, \$25 and \$26, and \$50 and \$51.

We are, therefore, revising 42 CFR 447.54(a)(3) to clarify that the maximum copayment for services is \$1 where State payment is \$10.01 through \$25.00, is \$2 where the State's payment is \$25.01 through \$50, and is \$3 where the State's payment is \$50.01 and more. Since the regulations prescribe maximum copayments, there never has been a rule to prohibit States from charging a \$1 copayment as long as the State's payment for the service was over \$10, as the current rule specifies a \$.50 maximum where States' payment is "\$10 or less". Consequently this revision is a clarification of existing policy rather than a change in the maximum nominal amounts. (As such, it does not fall within the purview of section 1916 which requires that changes in the current definition of nominal take into account the level of cash assistance in the State.)

#### C. Provider Requirements

Section 1916(c) includes a provision that specifies that no provider participating under Medicaid may deny care or services to an individual because of his or her inability to pay the required cost sharing charges. The law provides that this requirement on the provider does not extinguish the liability of the individual receiving the services from payment of the copayment charged. Instead, the intent of this provision is to assure that availability of services is not diminished because of the additional authority allowed in the law to impose copayments on the Medicaid population.

We are, therefore, revising the regulation at 42 CFR 447.15 to specify that providers participating in the Medicaid program must accept State payment and recipient copayment amounts as payment in full for services

and that providers may not deny services to recipients because of their inability to pay the copayment charge assessed.

States are required in accordance with CFR 435.905 to notify recipients of changes in their rights and responsibilities with regard to the Medicaid program. Thus, States that impose copayment obligations on recipients must take the appropriate action to notify recipients of the exclusions set forth in this regulation and the prohibition on denial of services on providers.

#### D. Waiver of Nominal Amounts for Nonemergency Services Furnished in Hospital Emergency Rooms

We are amending the regulations at 42 CFR 431.55 and 447.54 to provide for waiver of nominal copayment amounts for nonemergency outpatient services furnished in a hospital emergency room, as permitted in section 1916 (a)(3) and (b)(3). States may impose a copayment amount up to twice the current maximum for services that do not meet the definition of emergency services, as specified in 42 CFR 440.170(e), which are furnished in hospital emergency rooms. In imposing higher copayment amounts in this circumstance, States must establish, to the satisfaction of HCFA, that individuals have actually available and accessible to them alternative sources of nonemergency, outpatient services. Alternative sources of outpatient services would include physicians or clinics participating in the Medicaid program that are located within reasonable travel distance of the recipient. HCFA may request additional information from the State, such as quantitative estimates of the availability of alternative sources of outpatient services, if it is not clear from the State's waiver request that these alternative sources adequately exist.

Neither section 131 of Pub. L. 97-248 nor the legislative history of this provision provides any direction regarding implementation of this provision, such as duration of the waiver or monitoring of the effects of the waiver. However, section 1915 of the Act provides for similar waivers of other provisions of the Medicaid law. Subsection (d) of section 1915 specifies that all waivers under that section (other than waivers allowing States to provide home and community-based services), are to be granted for a two year period and may be continued at the State's written request if HCFA approves.

Subsection (e)(1) of section 1915 authorizes HCFA to monitor the

implementation of waivers granted under section 1915.

In the absence of congressional direction as to the implementation of the waiver authority granted in section 1916 of the law, we believe it is appropriate to apply the same general requirements applicable to other types of program waivers. Therefore, we are limiting the duration of granted waivers to 2 years, unless the State agency requests a continuation. Further, HCFA will monitor the implementation of waivers and where this monitoring shows evidence that the agency is not in compliance with the requirements of the waiver, HCFA may terminate the waiver granted, after a hearing in accordance with 42 CFR 431.55(b)(3).

Although waivers of the requirement that copayments be nominal for nonemergency services furnished in hospital emergency rooms will generally be granted for a two-year period, we are specifying that approved waivers will be re-evaluated if the State increases its current nominal amounts. Since HCFA's approval of a waiver request is based in part on the State's assurance of the accessibility of alternative sources of care and changes in copayment amounts could affect individuals' access to these sources of care, we believe re-evaluation of the waiver approval in the light of these changes is appropriate.

Even though these general procedures were published for public comment on October 1, 1981, and were mandated by statute (section 2175 of Pub. L. 97-35), they were designed specifically to implement waiver provisions of the Medicaid law other than those contained in section 1916. We are applying these procedures to section 1916 waivers and publishing these regulations as final rules with comment period at this time in view of the statutory effective date for implementation. However, we particularly welcome public comment as to the applicability of the already established procedures for other waiver of title XIX requirements to waiver for nonemergency services furnished in hospital emergency rooms.

#### E. Effective Date

Section 131 of the Pub. L. 97-248 specifies that these provisions are effective October 1, 1982. However, if implementation of these regulations requires State legislation, section 131 also specifies that a State plan will not be out of compliance with these new requirements unless it has not been amended by the first day of the first calendar quarter beginning after the close of the first regular session of the

State legislature that begins after September 3, 1982. However, the State plan must be amended immediately to implement any provisions of this regulation which do not require State legislation.

Regulations governing effective dates of State Medicaid plans at 45 CFR 201.3(g) specify that plans may be effective the first day of the calendar quarter in which an approvable plan is submitted. We have already instructed State Medicaid agencies to amend their plans to bring them into conformity with section 131 of Pub. L. 97-248 effective October 1, 1982.

### III. Impact Analysis

#### A. Executive Order 12291

Executive Order 12291 requires that a regulatory impact analysis be performed for any "major rule". We do not believe that this final rule will not have an annual effect on the national economy of \$100 million, or otherwise meet the threshold criteria to be considered a major rule.

These regulations do not require States to make any changes in their current copayment practices, except where the State is currently imposing cost sharing charges on services or categories of recipients which are prohibited under the new law. However, we expect many States will revise their State plans to add copayment charges as permitted by section 131 of Pub. L. 97-248. Our actuaries have estimated the economic impact will be Federal program savings of \$78 million in FY 1983, \$90 million for FY 1984, and \$103 million in FY 1985.

However, even if we were to determine that there was an impact of \$100 million or more, we would not classify this regulation as a major rule for purposes of the Executive Order. This is because we have determined that section 131 of Pub. L. 97-248, the Tax Equity and Fiscal Responsibility Act of 1982, and State actions arising from this legislation have occasioned this impact, and not these regulations which merely implement the statutory provision. Therefore, a regulatory impact analysis is not required.

#### B. Regulatory Flexibility Analysis

The Secretary certifies under 5 U.S.C. 605(b), enacted by the Regulatory Flexibility Act of 1980 (Pub. L. 96-345), that these regulations will not have a significant impact on a substantial number of small businesses, nonprofit entities or small local governments. However, even if there were a significant effect on a substantial number of small entities, we have

determined that this effect is the result of the statutory provision and State behavior in exercising the options permitted under this legislation, not these regulations, which merely implement the recent amendment.

### IV. Waiver of Proposed Rulemaking

The amendments contained in this regulation merely revise existing regulations to the extent that they are in conflict with the statute as amended, or to restate those provisions of the statute that are self-executing. These regulations implement section 131 of Pub. L. 97-248, which became effective on October 1, 1982. Since the statute does not permit the Secretary discretion to change the classes of individuals or categories of services on which cost sharing charges may be imposed, we believe that publication of a notice of proposed rulemaking is unnecessary for implementation of those cost sharing provisions. Since the statute clearly specifies that the amendments made by it will be effective on October 1, 1982, States are required to amend their State plans, where necessary, effective that date. Our failure to have regulations in effect, as close to October 1 as possible, which provide guidance on implementing these statutory changes and reflect the new statutory requirements, might create confusion and unnecessary delay in implementation of those requirements. We are particularly concerned to avoid any confusion with respect to those services for which the statute now prohibits copayments. We, therefore, believe that any delay in permitting the States to introduce the new provisions Congress intended to become effective by October 1, 1982 would be contrary to the public interest. We are, however, not including in this regulation any provisions that are not required by October 1, particularly those dealing with revision of the definition of "nominal" amounts.

Further, the statute authorizes the Secretary to begin to grant waivers of the requirement that copayment charges be nominal for nonemergency services furnished in hospital emergency rooms on October 1, 1982. The Secretary wishes to effectuate the will of Congress by considering waiver requests as soon as possible after October 1. To avoid confusion and promote consistency in waiver determinations, it is important that these regulations be issued as quickly as possible so that States will receive guidance concerning the standards we will apply in approving and disapproving waiver requests. In order to have these regulations in place as close as possible to the effective date

in the law, we must publish these regulations in final form. We believe that a prior public comment period is unnecessary, impractical and contrary to public interest. Therefore, we find good cause to waive publication of a notice of proposed rulemaking on this issue. For the same reasons, we also find good cause to waive the usual 30-day delay in effective date. We will, however, consider any comments on this rule that are mailed by the date specified in the "DATES" section and make any further changes that may be necessary.

### V. Other Required Information

#### A. Public Comments

Because of the large number of comments we receive, we cannot acknowledge or respond to them individually. However, we will consider all comments and will respond to them in the preamble to a revised final rule, if we find it is necessary.

#### B. List of Subjects

##### 42 CFR Part 431

Administrative practice and procedure, Contracts (Agreements), Fair hearings, Federal financial participation, Grant-in-Aid program—health, Health facilities, Health maintenance organizations (HMO), Indians, Information (Disclosure), Medicaid, Mental health centers, Prepaid health plans, Privacy, Quality control, Reporting requirement.

##### 42 CFR Part 435

Aid to Families with Dependent Children, Aliens, Categorically needy, Contracts (Agreements—State Plan), Eligibility, Grant-in-Aid program—health, Health facilities, Medicaid, Medically needy, Reporting requirements, Spend-down, Supplemental security income (SSI).

##### 42 CFR Part 436

Aid to Families with Dependent Children, Aliens, Contracts (Agreements), Eligibility, Grant-in-Aid program—health, Guam, Health facilities, Medicaid, Puerto Rico, Supplemental security income (SSI), Virgin Islands.

##### 42 CFR Part 440

Clinics, Dental health, Drugs, Grant-in-Aid program—health, Health care, Health facilities, Health professions, Hearing disorders, Home health services, Inpatients, Laboratories, Language disorders, Lung diseases, Medicaid, Mental health centers, Occupational therapy, Personal care

services, Physical therapy, Prosthetic devices, Outpatients, Ophthalmic goals and services, Rural areas, Speech disorders, X-rays.

#### 42 CFR Part 447

Accounting, Clinics, Contracts (Agreements), Copayments, Drugs, Grant-in-Aid program—health, Health facilities, Health professions, Hospitals, Medicaid, Nursing homes, Payments for services—general, Payments—timely claims, Reimbursement, Rural areas.

### PART 431—STATE ORGANIZATION AND GENERAL ADMINISTRATION

The authority citation for Part 431 reads as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302) unless otherwise noted.

42 CFR 431.55 is amended by revising paragraph (a) and adding paragraph (g) as set forth below:

#### § 431.55 Waiver of other Medicaid requirements.

(a) *Basis and purpose.* This section implements section 1915(b) of the Act, which authorizes the Secretary to waive the requirements of sections 1902 and 1903(m) of the Act to the extent he or she finds proposed improvements in the provision of services under Medicaid to be cost-effective, efficient, and consistent with the objectives of the Medicaid program. This section also implements sections 1915 (d), (e), and (f) of the Act, which govern how such waivers are to be approved, continued, monitored, and terminated. Additionally, paragraph (g) of this section implements section 1916 (a)(3) and (b)(3) of the Act, which authorizes the Secretary to waive the requirement in those sections that cost-sharing amounts be nominal.

(g) *Cost sharing requirement.* Beginning October 1, 1982, under sections 1916 (a)(3) and (b)(3), the Secretary may permit by waiver, copayments of up to double the nominal amount, as described in section 447.54, to be imposed on nonemergency services furnished in a hospital emergency room.

(1) Nonemergency services are those services that do not meet the definition of emergency services at section 447.53(b)(4).

(2) In order for a waiver to be approved under this provision, the State must establish to the satisfaction of HCFA, that alternative sources of nonemergency, outpatient services are available and accessible to eligible individuals.

(3) Although, in accordance with paragraph (b)(2) of this section, a waiver will generally be granted for a 2 year duration, HCFA will re-evaluate approved waivers if the State increases the nominal copayment amounts in effect when the waiver was approved.

### PART 435—ELIGIBILITY IN THE STATES, DISTRICT OF COLUMBIA AND THE NORTHERN MARIANA ISLANDS

The authority citation for Part 435 reads as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302) unless otherwise noted.

42 CFR Part 435 is amended as set forth below:

1. Section 435.725(c)(1)(iii) is revised to read as follows:

**§ 435.725 Post-eligibility treatment of income and resources of institutionalized individuals: Application of patient income to the cost of care.**

(c) \* \* \*

(1) \* \* \*

(iii) For other individuals, a reasonable amount set by the agency, based on a reasonable difference in their personal needs from those of the aged, blind, and disabled.

2. Section 435.733(c)(1)(iii) is revised to read as follows:

**§ 435.733 Post-eligibility treatment of income and resources of institutionalized individuals: Application of patient income to the cost of care.**

(c) \* \* \*

(1) \* \* \*

(iii) For other individuals, a reasonable amount set by the agency, based on a reasonable difference in their personal needs from those of the aged, blind, and disabled.

3. Section 435.832(c)(1)(iii) is revised to read as follows:

**§ 435.832 Post-eligibility treatment of income and resources of institutionalized individuals: Application of patient income to the cost of care.**

(c) \* \* \*

(1) \* \* \*

(iii) For other individuals, a reasonable amount set by the agency, based on a reasonable difference in their personal needs from those of the aged, blind, and disabled.

### PART 436—ELIGIBILITY IN GUAM, PUERTO RICO, AND THE VIRGIN ISLANDS

The authority citation for Part 436 reads as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302) unless otherwise noted.

42 CFR Part 436.832(c)(1) is revised as set forth below:

**§ 436.832 Post-eligibility treatment of income and resources of institutionalized individuals: Application of patient income to the cost of care.**

\* \* \* \* \*

(c) \* \* \*

(1) A personal needs allowance that is reasonable in amount for clothing and other personal needs of the individual while in the institution.

\* \* \* \* \*

### PART 440—SERVICES: GENERAL PROVISIONS

The authority citation for Part 440 reads as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302) unless otherwise noted.

42 CFR 440.250 is amended by adding a new paragraph (l) as set forth below:

**§ 440.250 Limits on comparability of services.**

\* \* \* \* \*

(l) If the agency imposes cost sharing on recipients in accordance with 447.53, the imposition of cost sharing on an individual who is not exempted by one of the conditions in section 447.53(b) shall not require the State to impose copayments on an individual who is eligible for such exemption.

### PART 447—PAYMENT FOR SERVICES

The authority citation for Part 447 reads as follows:

Authority: Sec. 1102 of the Social Security Act (42 U.S.C. 1302) unless otherwise noted.

42 CFR Part 447 is amended as set forth below:

1. Section 447.15 is revised to read as follows:

**§ 447.15 Acceptance of State payment as payment in full.**

A State plan must provide that the Medicaid agency must limit participation in the Medicaid program to providers who accept, as payment in full, the amounts paid by the agency plus any deductible, coinsurance or copayment required by the plan to be paid by the individual. However, the provider may not deny services to any eligible individual on account of the

individual's inability to pay the cost sharing amount imposed by the plan in accordance with § 447.53.

(Sec. 1916(c) of the Act)

2. Section 447.53 (a), (b) and (c) are revised to read as follows:

**Deductible, Coinsurance, Co-payment or Similar Cost-Sharing Charge**

**§ 447.53 Applicability; specification; multiple charges.**

(a) *Basic requirements.* Except as specified in paragraph (b) of this section, the plan may impose a nominal deductible, coinsurance, copayment, or similar charge upon categorically and medically needy individuals for any service under the plan.

(b) *Exclusions from cost sharing.* Effective October 1, 1982, the plan may not provide for imposition of a deductible, coinsurance, copayment, or similar charge upon categorically or medically needy individuals (except as specified in paragraph (b)(6) of this section) for the following:

(1) *Children.* Services furnished to individuals under 18 years of age (and, at the option of the State, individuals under 21, 20, or 19 years of age, or any reasonable category of individuals 18 years of age or over but under 21) are excluded from cost sharing.

(2) *Pregnant women.* Services furnished to pregnant women (when it can be determined from the claim submitted that the recipient was pregnant), if such services relate to the pregnancy, or to any other medical condition which may complicate the pregnancy are excluded from cost sharing obligations. These services include routine prenatal care, labor and delivery, routine post-partum care, and complications of pregnancy or delivery likely to affect the pregnancy, such as hypertension, diabetes, and urinary tract infection. States may further exclude from cost sharing all services furnished to pregnant woman if they desire.

(3) *Institutionalized individuals.* Services furnished to any individual who is an inpatient in a hospital, long-term care facility, or other medical institution if the individual is required (pursuant to §§ 435.733, 435.832, or 436.832), as a condition of receiving services in the institution, to spend all, but a minimal amount of his income required for personal needs, for medical care costs are excluded from cost sharing.

(4) *Emergency services.* Inpatient or outpatient services are considered emergency services (in accordance with § 440.170 (e)) under this exclusion if:

(i) The services are necessary to prevent the death or serious impairment of the health of the individual; and

(ii) Because of the threat to life or health of the individual, the services are furnished in the most accessible hospital available that is equipped to furnish the required care even if the facility does not meet the conditions for participation under Medicare or meet the definitions of inpatient or outpatient services under §§ 440.10 and 440.20.

(5) *Family planning.* Family planning services and supplies furnished to individuals of child-bearing age are excluded from cost sharing.

(6) *HMO Enrollees.* Services furnished by a health maintenance organization (HMO) to categorically needy individuals enrolled in the HMO are excluded from cost sharing. States may further exclude copayment charges for HMO services furnished to medically needy individuals.

(c) *Prohibition against multiple charges.* For any service, the plan may not impose more than one type of charge referred to in paragraph (a) of this section.

5. Section 447.54(a) is revised, paragraphs (b) and (c) are redesignated as paragraphs (c) and (d), respectively, and a new paragraph (b) is added to read as follows:

**§ 447.54 Maximum allowable charges.**

(a) *Non-institutional services.* Except as specified in paragraph (b), for non-institutional services, the plan must provide that—

(1) Any deductible it imposes does not exceed \$2.00 per month per family for each period of Medicaid eligibility. For example, if Medicaid eligibility is certified for a 3-month period, the maximum deductible which may be imposed on a family for that period of eligibility is \$6.00;

(2) Any coinsurance rate it imposes does not exceed 5 percent of the payment the agency makes for the services; and

(3) Any co-payments it imposes do not exceed the amounts shown in the following table:

States payment for the service	Maximum copayment chargeable to recipient
\$10 or less.....	\$.50
\$10.01 to \$25.....	1.00
\$25.01 to \$50.....	2.00
\$50.01 or more.....	3.00

(b) *Waiver of the requirement that cost sharing amounts be nominal.* Upon approval from HCFA, the requirement that cost sharing charges must be nominal may be waived, in accordance with section 431.55(g) for nonemergency services furnished in a hospital emergency room.

(c) *Institutional services.* For institutional services, the plan must provide that the maximum deductible, coinsurance or co-payment charge for each admission does not exceed 50 percent of the payment the agency makes for the first day of care in the institution.

(d) *Cumulative maximum.* The plan may provide for a cumulative maximum amount for all deductible, coinsurance or co-payment charges that it imposes on any family during a specified period of time.

4. Section 447.58 is revised to read as follows:

**§ 447.58 Payments to prepaid capitation organizations.**

Except for HMO services subject to the co-payment exclusion in § 447.53(b)(6), if the agency contracts with a prepaid capitation organization that does not impose the agency's deductibles, coinsurance, co-payments or similar charges on its recipient members, the plan must provide that the agency calculates its payments to the organization as if those cost sharing charges were collected.

(Catalog of Federal Domestic Assistance Programs, No. 13.714, Medical Assistance Program)

Dated: November 22, 1982.

Carolyn K. Davis,  
Administrator, Health Care Financing Administration.

Approved: January 18, 1983.

Richard S. Schweiker,  
Secretary.

[FR Doc. 83-3250 Filed 2-7-83; 8:45 am]

BILLING CODE 4120-03-M

**DEPARTMENT OF THE INTERIOR**

**Office of the Secretary**

**43 CFR Part 20**

**Employee Responsibilities and Conduct**

**AGENCY:** Interior Department.

**ACTION:** Notice of availability—Appendices C, D, E, F, and G to 43 CFR Part 20.

**SUMMARY:** This notice announces the availability of Appendices C, D, E, F,



and G to 43 CFR Part 20. The Appendices list all positions within the Department of the Interior for which statements of Employment and Financial Interests are required to be filed. These Appendices have been updated as of December 1, 1982 and have been printed as an agency document. They will not be published in the *Federal Register* but will be available to the public, upon request.

**DATE:** Effective date of this notice is February 8, 1983.

**ADDRESS:** Copies of the Appendices may be obtained through the Deputy Ethics Counselor for each bureau or office within the Department of the Interior, Washington, D.C. 20240.

**FOR FURTHER INFORMATION CONTACT:** Gabriele J. Paone, Deputy Agency Ethics Official, or Mason Tsai, Assistant Agency Ethics Official, U.S. Department of the Interior, Washington, D.C. 20240; Telephone (202) 343-3932 or (202) 343-5916.

**SUPPLEMENTARY INFORMATION:** The Department of the Interior requested and received approval from the Office of Government Ethics, Office of Personnel Management, to publish Appendix C to 43 CFR Part 20 as an agency document. This document also includes the Department's annual update of Appendices D, E, F and G. The availability of this document is announced in the *Federal Register*. Notice of this arrangement was first provided with the publication of 43 CFR Part 20 as a proposed rule on October 6, 1980 (45 FR 66370). This arrangement meets administrative requirements which affect only Department employees and at the same time defrays cost of publishing in the *Federal Register*. Copies of the Appendices are on file as part of the original document with the Office of the Federal Register and are also available from the above address.

Appendix C lists Department of the Interior positions, in addition to GS (or GM)-15's for which a Confidential Statement of Employment and Financial Interests (Form DI-212) is required to be filed by Executive Order 11222. Positions identified in Appendix C are effective for the February 1, 1983 filing deadline. Appendix C was approved by the Office of Government Ethics, Office of Personnel Management, on January 12, 1983.

Appendices D, E, F and G are published to identify bureaus and offices, or subunits thereof, performing functions or duties under the Federal Land Policy and Management Act (Pub. L. 94-579), the Mining in the Parks Act (Pub. L. 94-429), the Energy Policy and

Conservation Act (Pub. L. 94-163), and the Outer Continental Shelf Lands Act (as amended by Pub. L. 95-372), respectively, and positions within those bureaus and offices which the Secretary has determined to be covered by the public financial disclosure requirements. As provided by these Acts, all officers and employees of the Department who are employed in offices or bureaus, or subunits thereof, performing functions or duties under any of the four Acts are required to file appropriate public financial disclosure statements unless specifically exempted by the Secretary.

#### List of Subjects in 43 CFR Part 20

Conflicts of interest, Government employees.

**Authorities:** Appendices C, D, E, F and G to Part 20 of Title 43 of the Code of Federal Regulations are published under E.O. 11222, 30 FR 6469, 3 CFR, 1964-65, Comp., as amended (18 U.S.C. 201 note); 5 CFR 735.104; 5 U.S.C. 301; sec. 313, Pub. L. 94-579, 90 Stat. 2789 (43 U.S.C. 1743); sec. 13, Pub. L. 94-429, 90 Stat. 1344 (16 U.S.C.A. 1912 (Supp. 1980)); sec. 522, Pub. L. 94-163, 89 Stat. 962, as amended by sec. 691(b)(2), Pub. L. 95-169, 92 Stat. 3288 (42 U.S.C. 6392 (Supp. II 1978)); and sec. 605, Pub. L. 95-372, 92 Stat. 696 (43 U.S.C. 1864 (Supp. II 1978)).

The Appendices were compiled by Bureau and Office Ethics Counselors and consolidated by Gabriele Paone and Mason Tsai of the Designated Agency Ethics Official's staff.

Dated: February 1, 1983.

James G. Watt,  
Secretary of the Interior.

[FR Doc. 83-3268 Filed 2-7-83; 8:45 am]  
BILLING CODE 4310-10-M

## FEDERAL MARITIME COMMISSION

### 46 CFR Parts 502, 531, 536 and 540

[G.O. 13, Amdt. 13, G.O. 16, Amdt. 43, G.O. 20, Amdt. 8 and G.O. 38, Amdt. 4; Docket No. 82-33]

#### Filing and Service Fees

**AGENCY:** Federal Maritime Commission.  
**ACTION:** Final rule.

**SUMMARY:** New fees are being established for filing complaints, petitions for declaratory orders and general petitions, special dockets, informal adjudication of small claims, conciliation services, tariff special permission applications (domestic and foreign), and applications for passenger vessel certification. It is necessary to establish new fees to transfer the cost burden of providing services from the general taxpayer to the recipient of the services. This action will require that all

applicants who request these Commission services will have to pay for them.

**DATE:** Effective March 10, 1983.

**FOR FURTHER INFORMATION CONTACT:** Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, (202) 523-5725.

**SUPPLEMENTARY INFORMATION:** On July 6, 1982, the Commission published a Notice of Proposed Rulemaking in the *Federal Register* (47 FR 29278) which proposed to establish several new fees for services provided by the Commission. The services selected were those which were readily identifiable and which provided value and utility to a recipient at its request. The Commission assigned to each a fair and equitable assessment based on the cost to the Commission of providing the service.

Comments to the Notice were submitted by: Senator Slade Gorton, Chairman of the Merchant Marine Subcommittee of the Senate Committee on Commerce, Science and Transportation; Annelise Anderson, Associate Director for Economics and Government, Office of Management and Budget; Pacific Coast European Conference (PCEC); Virginia Port Authority and Traffic Board, North Atlantic Ports Association (VPA/NAPA); Latin America/Pacific Coast Steamship Conference and Pacific Coast River Plate Brazil Conference (LAP/PCRPB); North European Conferences (NEC); Puerto Rico Maritime Shipping Authority (PRMSA); Associated Latin American Freight Conferences (ALAF); and International Committee of Passenger Lines (ICPL).

Senator Gorton and Ms. Anderson support the proposed rule without qualification. The other commenting parties oppose the rule for various reasons. The opposition to the rule is discussed below in terms of (1) legal requirements, (2) general comments and (3) comments on specific fee applications.

#### I. Legal Requirements

Four commentators, LAP/PCRPB, NEC, PRMSA, and ALAF, generally contend that the Commission's proposed charges are not justified under the principles established by the courts in interpreting Title V of the Independent Offices Appropriations Act, (IOAA) 31 U.S.C. 483a, and OMB Circular No. A-25. The Commission disagrees, and believes that its application of Title V

and Circular No. A-25 is consistent with these principles.

In two companion cases, the Supreme Court addressed the IOAA and set forth the following guidelines for its implementation:

1. An agency performing a service at the request of an applicant may exact a fee for such service if it bestows a benefit on the applicant not shared by others in society;

2. The proper measure of such a fee is the "value to the recipient;"

3. A charge for a service should be made only to an identifiable recipient who derives a special benefit therefrom; and

4. No charge should be made for services rendered when the identification of the ultimate beneficiary is obscure and the service can be primarily considered as benefitting broadly the general public. *National Cable Television Association v. United States*, 415 U.S. 336 (1974); *Federal Power Commission v. New England Power Co.*, 415 U.S. 345 (1974).

Subsequently, courts of appeal have refined these guidelines by the addition of the following:

1. The fee assessed may not exceed the cost to the agency in rendering the service;

2. The fee assessed should include only those expenses which are necessary to service the applicant;

3. An agency may recover the full cost of providing a service to an identifiable beneficiary, regardless of the incidental public benefits which may flow from the service; and

4. An agency may charge for services which assist a person in complying with statutory duties. *Electronic Industries Association v. Federal Communications Commission*, 554 F.2d 1109 (D.C. Cir. 1976); see also, *Mississippi Power & Light Co. v. U.S. Nuclear Regulatory Commission*, 601 F.2d 223 (5th Cir. 1979); *National Cable Television Association v. Federal Communications Commission*, 554 F.2d 1094 (D.C. Cir. 1976).

A number of specific requirements have been set to implement the above principles:

1. The agency must justify the assessment of a fee by a clear statement of the particular service or benefit for which it expects to be reimbursed;

2. The agency must calculate the cost basis for each fee by including:

a. An allocation of the specific expenses of the cost basis of the fee to the smallest practical unit;

b. The exclusion of expenses that serve an independent public interest; and

c. A public explanation of the specific expenses included on the cost basis for a particular fee, and an explanation of the criteria used to include or exclude particular items; and

3. The fee must be set to return the cost basis at a rate that reasonably reflects the cost of the service performed and value conferred on the payor.

*Electronic Industries Association v. F.C.C.*, 554 F.2d at 1117.

The Commission used these guidelines in developing its proposed fees in this proceeding, and has likewise used them in adopting the fees contained in this final rule. These fees therefore comport with all relevant statutory and judicial requirements.

Analyses were conducted by the Commission on the direct and indirect costs associated with services performed for which fees are being established. The availability of justification for the fee bases was made known in the Notice of Proposed Rulemaking and summary fee schedules were made available to all parties requesting justification data on how the fees were established.<sup>1</sup> The fees assessed include only those costs necessary to service an applicant and do not exceed the cost to the Commission in providing such services. The Commission has also identified the recipient which receives a benefit from its services which are conferred in exchange for fees collected. The Commission has thus met the requirements set out by Title V, Circular A-25 and Court decisions.

Questions have arisen over the concept of value to the recipient in terms of which party receives the benefit, and over whether costs were fully inclusive on the one hand or overly inclusive on the other. The opponents of the rule assert value to the recipient flows to the shipping public or the public at large rather than the applicant for a specific service, and thus the benefit to the applicant is indirect. The Commission finds that the value to the recipient flows to the applicant, and thus the benefit to the applicant is direct. An applicant who will not benefit from filing an application or requesting a Commission service will not request any action that would require payment of the fee. If an applicant desires to request services on behalf of another party, the applicant has to make a commercial decision regarding the value to be derived from the request. If a filing or

service fee is not worthwhile in this circumstance, an application or request for service will not be filed with the Commission. The services for which the Commission is assessing fees are not the types which can be considered as primarily benefitting the general public, although incidental public benefits may flow from the provision of these specifically requested services.

Opponents of the proposed rule have stated that indirect benefits to the public should not be included in the cost bases of the fees and that actual costs should be used in determining fees. The Commission agrees and has taken both of these issues into account in arriving at the proposed fees. The fees were derived from processing costs which are incurred for processing applications or providing services. The costs are related to employee activities which are necessary to perform the specified services and include an appropriate increment for overhead costs without including regulatory activity costs. Moreover, in determining the proposed fees, the Commission did not include the total cost of items because to do so would in some cases make the fees extremely high.

The opponents of the proposed rule also refer to the fees in the rule as "penalties" or "taxes" rather than fees. These opinions notwithstanding, the Commission has not established fees above the costs for services provided nor has it intended that the fees be penalties. The Commission does not influence the number of complaints or petitions filed nor does it control the number of special permission applications which are received annually. The Commission is required to process applications and provide other services when requested and it is proper to charge a fee for those services.

VPA/NAPA, NEC, PRMSA, ALAF and ICPL further dispute the level of fees proposed in the rule. The fees were developed by the Commission from 1982 cost data for providing the services identified in the proposed rule. Reductions in fees would establish arbitrary fees having no basis in fact and which would not provide any basis for future fee changes which may be necessary. The Commission has rejected this approach because it removes the cost basis of the fees from the requirements under Title V and it obscures the value-to-the-recipient requirement which is necessary to establish fees.

The Commission has been careful in selecting services which qualify for fee assessment and it has also been careful in observing the requirements of Title V

<sup>1</sup> Some opponents of this proposed rule erroneously stated in their comments that no analysis was performed by the Commission. Such incorrect assertions tend to confuse the issues, and serve no useful purpose in the establishment of fair and equitable fees.



in considering value to the recipient, direct and indirect cost to the Government, public policy or interest served, and other pertinent facts. The fees in the final rule are established to remedy the disparity between costs incurred for services provided to a user of the service and the lack of revenue to offset these costs. These services and accompanying fees benefit the applicant directly to the extent services would not be requested from the Commission if there was no reason for the applicant to make a request. Indirect benefits to the applicant are subject to interpretations which could never be resolved in a fee schedule nor have they shown to flow to a large segment of public to the extent that no fees should be charged for services rendered.

## II. General Comments

PCEC opposes the proposed rule on the general principle that one who is involuntarily subject to regulation for reasons of public policy should not be assessed special charges for complying with such regulation. It also contends that carriers do not obtain licenses to act as carriers and thus do not receive special benefit from the Commission which could properly call for an appropriate fee. In addition, PCEC is also concerned about the suggestion in the preamble to the proposed rule that charges for filing section 15 agreements and section 14(b) dual rate contracts might be added to the filing and service fees list at some later time. PCEC ultimately suggests that this proceeding should be dismissed.

VPA/NAPA objects to the exclusion of assessments or agreements from the proposed rulemaking because of proposed changes in legislation without similar exclusion of complaints and petitions for declaratory orders which could also be affected by proposed changes in the law.

In establishing the specific fees, the Commission has distinguished between services which are justified for reimbursement and those which are not. The Commission has also concluded that carriers, conferences and other persons do benefit from the Commission's regulation in advance of and in addition to Commission regulation benefitting the shipping public. The fees for complaints and petitions for declaratory orders are included within the rule because the processing steps are not likely to change in the near future.

## III. Comments on Specific Fee Applications

Exceptions to specific parts of the proposed rule were submitted by VPA/

NAPA, LAP/PCRPB, NEC, PRMSA, ALAF and ICPL. These exceptions and comments are set forth below in the order of the Code of Federal Regulations parts and subparts to which they apply.

### A. Complaints, Petitions for Declaratory Orders and Special Dockets Complaints (Part 502, § 502.62 and § 502.182) and Petitions for Declaratory Orders (Part 502, § 502.68)

VPA/NAPA asserts that precedential value from Commission decisions in complaint proceedings can extend to the entire shipping industry and the effects from the decisions could further filter down to the consuming public. VPA/NAPA therefore argues that the recipients of benefits of FMC complaint proceedings are not readily identifiable. It further claims that the negative impact of a \$25 or \$50 filing fee can be a major burden to small shippers in addition to being a disincentive to use the FMC as a forum for resolution of disputes.

The Commission is aware of the precedential values of its decisions. However, the direct value to a complainant or petitioner does not change by virtue of publication of the decision. The proposed rule would establish processing fees for specific services provided and the direct benefit to be gained must be evaluated by the applicant as to whether or not the service is worthwhile. The Commission views the applicant as the readily identifiable recipient of the benefits of the services provided.

Complaint and petition filing fees should not be a major burden to small shippers because of their nominal amount. Moreover, these administrative processing fees do not cover the full cost to the Commission of handling petitions. It is unlikely that a \$25 or \$50 filing fee for processing complaints or petitions will result in reduced use of the FMC as a forum for resolution of disputes.

### Special Docket Applications (Part 502 § 502.92)

VPA/NAPA and LAP/PCRPB both commented on special docket applications. VPA/NAPA points out that this procedure, whereby carriers can refund or waive freight charges where there is an error in a tariff of a clerical, administrative or technical nature, was instituted as an alternative to costly formal proceedings and should not be burdened with the obstacle of a filing fee. LAP/PCRPB allege that shippers, not carrier applicants, are the beneficiaries of the waivers and refunds granted pursuant to such applications. They contend that a charge against the carrier for this procedure is unfair and improper because the carriers will have

been charged for something of "special benefit," not to themselves, but to the shippers.

The Commission does not believe the filing fee for special dockets is so costly that it will force applicants to revert to more costly formal proceedings. Nor does the Commission believe that carriers in no way benefit from making such applications on behalf of their customers. Carriers benefit from the good will shown to their customers and they have the opportunity to retain customer business by utilizing the special docket procedure. Moreover, control over the filing of rates and charges in tariffs rests with carriers and they are able to correct their own errors through this procedure. Strong administrative controls by the carriers could eliminate, or at least reduce, the need to seek special docket refund or waiver authority from the Commission.

New fees under Part 502 remain unchanged from the proposed rule because they are reasonable charges for the services provided.

### B. Non-exclusive Transshipment Agreements (Part 524, § 524.4)

Non-exclusive transshipment arrangements will soon be proposed for exemption from filing requirements. The Commission has removed the proposed filing fee from this final rule and has determined this matter will remain open until further notice.

### C. Special Permission Applications in Domestic Offshore Commerce (Part 531, § 531.18) and Foreign Tariffs Special Permission Applications (Part 536, § 536.15)

PRMSA, LAP/PCRPB, and NEC protest the proposed \$90 special permission application fee.

PRMSA protests the imposition of a \$90 fee for filing special permission applications in the domestic offshore trade, and contends that the proposed fee would impose a significant burden on carriers without consideration of economic inefficiencies harmful to the public interest. PRMSA says it filed approximately 50 special permission applications in 1981. It further claims that the direct costs of the proposed charges would represent only part of the potential expense and, in conjunction with special permission applications, the entire cost of reviewing the application, preparing a recommendation, and making a determination is assigned to the applicant without consideration of possible public benefit. PRMSA thus argues that the proposed fees will introduce transaction costs which are contrary to sound economic policy and

the underlying purposes of special permissions. PRMSA takes the position that the fee should be withdrawn.

LAP/PCRPB comments that: (1) The impetus for a special permission application mostly comes from a shipper seeking a new rate, (2) the benefit would seem in such cases to flow equally to the shipper or the shipping public at large, and (3) the legislative history of the applicable portion of section 18(b)(2) of the Shipping Act makes it clear that broad public interests were to be served and not the limited interests of the carriers.

NEC does not object to the establishment of a fee for filing special permission applications. NEC contends, however, that the proposed fee is excessive and does not reflect the value of the service to the recipient. NEC states that the Commission has historically and consistently exercised discretion to grant special permission authority for good cause shown and where real merit is demonstrated on the basis of anticipated public benefits—not where special benefits would be obtained by a few companies or persons rather than the general public. It further claims that the Commission has not distinguished the number of special permission applications granted or denied and there is obviously no value conferred on the applicant whose special permission is denied. NEC does not contend there is no value to the special permission application services; rather, the relationship between the fee and the service is more appropriately reflected by the figure of \$25. NEC urges the Commission to amend its proposed rule to reduce the fee from \$90 for all applications down to \$25 for those special permission applications which are granted.

The Commission has considered the public benefit of instituting a filing fee for processing special permission applications. The purpose of a special permission is to waive tariff filing requirements upon a showing of good cause. The carrier applicant seeks to obtain a benefit for itself or its customer through the special permission procedure. Though the general public might benefit from the procedure, its benefit is speculative and incidental to the benefit conferred on the applicant carrier.

The Commission incurs special permission application processing costs regardless of the determination to grant or deny the permission. The grant or denial of the application is provided to the applicant carrier or conference, not the shipper providing the impetus for the request. During fiscal year 1982, the Bureau of Tariffs received 294 special

permission applications. Each individual grant of special permission directly affects the applicant carrier and possibly affects its shipping customer. If there is absolutely no benefit to be gained by the carrier, it will not file an application for special permission.

The Commission believes the proposed fee is reasonable in relation to the costs it incurs for processing special permission applications. Limiting the fee to apply to only those instances where special permission is granted would give the appearance of applicants buying approval from the Commission. When an application for special permission is received, it is immediately processed. Special permission applications require special processing to take into account special services or arrangements which are not normally available in tariffs. The application processing costs are the same regardless of the final determination. The Commission believes it is appropriate to charge the requesting parties for the services provided at a rate near but not higher than that which is experienced in servicing the request. Establishing the filing fee shifts the application processing fee burden from the general taxpayer to the applicant without transferring the regulatory costs of ensuring that the special permission is used for its intended purpose. The Commission is not withdrawing nor reducing the filing fee for special permission applications.

#### *D. Temporary Tariff Filing Fee (Part 536, § 536.10)*

Temporary tariff filing fees are removed from this final rule. New electronic tariff filing methods could make temporary tariff filings unnecessary and because suspension of temporary tariff filings is pending in Docket No. 80-56, this matter is being held open until further notice.

#### *E. Passenger Vessel Certification Fees (Part 540, § 540.4 and § 540.23)*

The International Committee of Passenger Lines (ICPL) states that applications filed for certification pursuant to 46 CFR Part 540 should not be subject to any fee because the beneficiaries of Pub. L. 89-777 (46 U.S.C. 817) are travellers embarking at United States ports, not the passenger lines filing the applications. ICPL notes that foreign passenger lines are entitled to transport passengers between the United States and foreign ports under general principles of maritime law and treaties of friendship, navigation and commerce. It claims that nothing in Pub. L. 89-777 took away this right of carriage or remotely suggested that charges should be assessed for the

Commission performing its duties. ICPL contends that since the statute was enacted to protect passengers against nonperformance of prepaid voyages and to ensure funds are available to meet personal injury and death claims, the only benefits are to provide security for protection of the public; and compliance with statutory requirements of Pub. L. 89-777 is a burden rather than a benefit to the passenger carrier. Moreover, ICPL notes that the Civil Aeronautics Board exempts foreign air carriers from payment of all filing and license fees (14 CFR 389-24).

ICPL further states that the Commission's functions apply to certification and not licensing of passenger vessels. It contends that the detailed cost analyses in support of the proposed rule are far from enlightening and it is unlikely that any more staff effort is involved in verifying casualty certificate P & I Club guarantees and surety bonds than in the case of evidence of financial responsibility required for pollution certificate applications under 46 CFR Part 542. The casualty certificate fee is more than five (5) times that of the pollution certificate. It also appears to ICPL that no extra effort is needed to process performance certificates where the applicant provides the maximum \$10 million security specified in 46 CFR 540.9(j). ICPL contends that nothing in the Commission's figures explains the amount of costs or why an application backed by regular guarantees or surety bonds cost approximately \$1,691 to process.

The Commission consumes extensive amounts of time and effort in processing passenger vessel certificates. The Office of Vessel Certification receives the application, records and reviews it, discusses it with the applicants, determines the amount of financial responsibility, reviews other pertinent agreements and charters, develops notice of application to be published in the *Federal Register*, reviews evidence of financial responsibility, prepares a recommendation after research is completed, coordinates with other bureaus and offices as appropriate to ensure comments are incorporated in the recommendation, reproduces copies of the recommendation and has the matter placed on the agenda of the Commission for approval. Upon approval, certificates are issued and the notice of approval is published in the *Federal Register*. Audit requirements are then established, and the *Federal Register* is reviewed for publication and to obtain a copy of the published notice of approval. Audit reports and unearned

passenger revenues are reviewed to ensure adequacy of evidence of financial responsibility. The time and efforts required to process these passenger vessel certificates vary greatly from the routine functions associated with certifying financial responsibility for pollution liability.

Moreover, the fees set forth in the proposed rule do not include costs to the Commission of conducting field audits, processing activities carried out by bureaus and offices other than the Office of Vessel Certification, or other costs associated with monitoring the passenger cruise lines to ensure compliance with the statute. The direct beneficiaries of the services provided by the Commission are the passenger carriers which are able to do business in the United States upon obtaining the required certificates. The indirect beneficiaries of the services are the passengers receiving the protection required by the statute. In the normal commercial environment, the carriers determine whether or not the fee is going to prohibit them from carrying passengers. If the filing fee is paid and the fares increase for that reason, the passengers who are being protected are thereby paying for the services they are using. The benefit could then flow from the carrier to the passenger and the cost of providing the service would be removed as a burden on the general public. The Commission is not withdrawing nor reducing the casualty and performance certification application fees, nor is it exempting foreign passenger carriers from the rule's requirements, since to do so would be discriminatory to U.S. flag carriers.

The Commission has reviewed all comments submitted by the parties responding to the Commission's notice of proposed rulemaking. The comments are pertinent in many instances, and irrelevant in others because they make assumptions which cannot be verified or which bear no direct relationship to the actual cost criteria from which the proposed filing fees were developed. The Commission is not taxing users of its services nor is the Commission recovering the costs of regulating the parties subject to Commission authority. The filing and application fees in this rule are based upon direct and indirect costs of providing services which are requested by applicants. The fees are also set to recover the cost of providing services while being careful not to exceed these costs. The fees are being established to recover costs "to the full extent possible" in a manner which is, "fair and equitable taking into

consideration direct and indirect cost to the government, value to the recipient, public policy or interest served and other pertinent facts."

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Commission certifies that adoption of the proposed rule will not have a significant economic impact on a substantial number of small entities.

#### List of Subjects in 46 CFR Parts 502, 531, 536 and 540

Maritime carriers, Freight forwarders, Practice and procedure, Fees and user charges.

#### PART 502—[AMENDED]

Therefore, pursuant to 5 U.S.C. 553, section 43 of the Shipping Act, 1916 (46 U.S.C. 841a), and Title V of the Independent Offices Appropriations Act of 1952 (31 U.S.C. 483a), the Federal Maritime Commission is amending Title 46 of the Code of Federal Regulations as follows:

1. Part 502—*Rules of Practice and Procedure* is amended in the following respects.

a. In § 502.62 the title is amended and a new sentence is added reading as follows:

#### § 502.62 Complaints and fee.

\* \* \* The complaint shall be accompanied by remittance of a \$50 filing fee.

b. In § 502.68 the title is amended and a new sentence is added to paragraph (a) reading as follows:

#### § 502.68 Declaratory orders and fee.

(a) \* \* \* Petitions shall be accompanied by remittance of a \$50 filing fee.

c. In § 502.69 the title is amended and a new sentence is added reading as follows:

#### § 502.69 Petitions—general and fee.

\* \* \* Petitions shall be accompanied by remittance of a \$50 filing fee.

d. In § 502.92 the title is amended and a new sentence is added to paragraph (a)(3) reading as follows:

#### § 502.92 Special docket applications and fee.

(a) \* \* \*

(3) \* \* \* The application for refund or waiver must be accompanied by remittance of a \$25 filing fee.

e. In § 502.182 the title is amended and a new sentence is added reading as follows:

#### § 502.182 Complaint and memorandum of facts and arguments and filing fee.

\* \* \* The complaint shall be accompanied by remittance of a \$50 filing fee.

f. In § 502.304 the title is amended and a new sentence is added to paragraph (b) reading as follows:

#### § 502.304 Procedure and filing fee.

\* \* \*

(b) \* \* \* Such claims shall be accompanied by remittance of a \$25 filing fee.

\* \* \*

g. In § 502.404 the title is amended and a new sentence is added to paragraph (a) reading as follows:

#### § 502.404 Procedure and fee.

(a) \* \* \* The request shall be accompanied by remittance of a \$25 service fee.

\* \* \*

2. Part 531—*Publishing, Filing and Posting of Tariffs in Domestic Offshore Commerce* is amended by adding a new subparagraph (3) to § 531.18(a) as follows:

#### § 531.18 Applications for special permission.

(a) \* \* \*

(3) An application for special permission shall be accompanied by a \$90 filing fee.

\* \* \*

3. Part 536—*Publishing and Filing Tariffs by Common Carriers in the Foreign Commerce of the United States* is amended in the following respects.

In § 536.15 a new sentence is added to paragraph (b) reading as follows:

#### § 536.15 Applications for special permission.

\* \* \*

(b) \* \* \* Such applications shall be accompanied by a filing fee remittance of \$90.

\* \* \*

4. Part 540—*Security for the Protection of the Public* is amended in the following respects.

a. In § 540.4 a new sentence is added to paragraph (b) reading as follows:

#### § 540.4 Procedure for establishing financial responsibility.

\* \* \*

(b) \* \* \* An application for a Certificate (Performance) shall be accompanied by a filing fee remittance of \$1,600.

\* \* \*

b. In § 540.23 a new sentence is added to paragraph (b) reading as follows:

**§ 540.23 Procedure for establishing financial responsibility.**

(b) \* \* \* An application for a Certificate (Casualty) shall be accompanied by a filing fee remittance of \$800.

By the Commission.

Francis C. Hurney,  
Secretary.

[FR Doc. 83-3258 Filed 2-7-83; 8:45 am]

BILLING CODE 6730-01-M

**46 CFR Parts 503, 542, 543, and 544**

[G.O. 22; Amdt. 12, G.O. 37; Amdt 2, G.O. 40; Amdt. 1, G.O. 41; Amdt. 1; Docket No. 82-32]

**Water and Oil Pollution; Public Information Fees**

**AGENCY:** Federal Maritime Commission.

**ACTION:** Final rule.

**SUMMARY:** Fees for public information, financial responsibility for water pollution and financial responsibility for oil pollution are amended to reflect current costs incurred by the Commission in providing such services.

**DATE:** Effective March 10, 1983.

**FOR FURTHER INFORMATION CONTACT:**

Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, (202) 523-5725.

**SUPPLEMENTARY INFORMATION:** On July 6, 1982, the Commission published a Notice of Proposed Rulemaking in the *Federal Register* (47 FR 29280) which proposed to update its fees schedule to remedy the disparity between costs incurred and revenues collected for certain special services, even though total costs would not be recovered.

Comments were submitted by Senator Slade Gorton, Chairman of the Merchant Marine Subcommittee of the Senate Committee on Commerce, Science and Transportation; Annelise Anderson, Associate Director for Economics and Government, Office of Management and Budget; and Hollywood Marine Incorporated. Both Senator Gorton and Associate Director Anderson support the proposed rule. Hollywood Marine is opposed to the proposed rule contending that proposed increases would act as another factor working against the barge and towing industry at a time when the industry needs to eliminate as many economic burdens as possible. Hollywood Marine requests reconsideration of the proposed rule wherein, if it cannot be deleted in its entirety, at the least it would be postponed to a time when the economy

and the barge and towing industry are in a much more stable economic situation. General comments opposing increased fees in both this docket and Docket No. 82-33 are addressed in 82-33.

The Commission does not deem it appropriate to delay implementation of or eliminate the proposed fee schedule to suit one segment of the maritime industry suffering from economic problems. Postponing the proposed rule or eliminating it entirely will not save the barge and towing industry from idle capacity due to declining shipments, high interest rates, and rising fuel prices. Accordingly, the Commission has decided to adopt a final rule which is unaltered from its proposed rule.

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601 et seq.), the Commission certifies that adoption of this final rule will not have a significant economic impact on a substantial number of small entities.

**List of Subjects in 46 CFR Parts 503, 542, 543, 544**

Maritime carriers, Freight forwarders, Practice and procedure, Fees and user charges.

**PART 503—[AMENDED]**

Therefore, pursuant to 5 U.S.C. 553, section 43 of the Shipping Act, 1916 (46 U.S.C 841a), and Title V of the Independent Offices Appropriations Act of 1952 (31 U.S.C. 483a), the Federal Maritime Commission is amending Title 46 of the Code of Federal Regulations as follows:

**§ 503.43 [Amended]**

1. Part 503—*Public Information* is amended in the following respects.

In § 503.43 *Fees for services*, in paragraph (b), "\$3" is amended to read "\$5"; in paragraph (c)(1) "\$5" is amended to read "\$7"; in paragraph (c)(3) "\$5" is amended to read "\$7"; in paragraph (c)(4) "\$1" is amended to read "\$2.50"; paragraph (c)(5) is deleted; in paragraph (d)(1) "\$175" is amended to read "\$195"; in paragraph (d)(2) "\$50" is amended to read "\$120"; in paragraph (d)(3) "\$12.50" and "\$2" are amended to read "\$16.50" and "\$8.25" respectively; in paragraph (g) "\$2.50" and "\$1.50" are amended to read "\$4.25" and "\$4" respectively; and in paragraph (h) "\$10" is amended to read "\$13."

**§ 503.69 [Amended]**

In § 503.69 (b)(2) "\$2" is amended to read "\$5."

**PART 542—[AMENDED]**

**§ 542.13 [Amended]**

2. Part 542—*Financial Responsibility for Water Pollution* is amended in the following respects.

In § 542.13 *Fees*, the references in paragraphs (d) and (e) to "\$100" and "\$20" are amended to read "\$75" and "\$40" respectively and in paragraph (f) the reference to "\$10" is amended to read "\$20." Additionally, the first sentence of paragraph (d) is revised to read as follows.

**§ 542.13 Fees.**

(d) Each applicant who submits Application Form FMC-321 for the first time shall pay an initial, nonrefundable application fee of \$75. \* \* \*

**PART 543—[AMENDED]**

**§ 543.9 [Amended]**

3. Part 543—*Financial Responsibility for Oil Pollution—Alaska Pipeline* is amended in the following respects.

In § 543.9 *Fees*, the references in paragraphs (d) and (e) to "\$100" and "\$20" are amended to read "\$75" and "\$40" respectively and in paragraph (f) the reference to "\$10" is amended to read "\$20."

**PART 544—[AMENDED]**

**§ 544.12 [Amended]**

4. Part 544—*Financial Responsibility for Oil Pollution—Outer Continental Shelf* is amended in the following respects.

In § 544.12 *Fees*, the references in paragraphs (d) and (e) to "\$100" and "\$20" are amended to read "\$75" and "\$40" respectively and in paragraph (f) the reference to "\$10" is amended to read "\$20." By the Commission.

Francis C. Hurney,

Secretary.

[FR Doc. 83-3258 Filed 2-7-83; 8:45 am]

BILLING CODE 6730-01-M

**46 CFR Parts 522 and 552**

[G.O. 24 and 43]

**OMB Clearance Information**

**AGENCY:** Federal Maritime Commission.

**ACTION:** Final rule.

**SUMMARY:** Rules containing OMB clearance information are amended to reflect OMB clearance for the reporting requirements contained therein and to delete reference to the expiration dates. The amendment is necessary to comply

with the Paperwork Reduction Act of 1980.

**DATE:** Effective February 8, 1983.

**FOR FURTHER INFORMATION CONTACT:** Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW, Washington, D.C. 20573. Telephone: (202) 523-5725.

**SUPPLEMENTARY INFORMATION:** 44 U.S.C. 3504 requires the Office of Management and Budget (OMB) to review information collection requests from 10 or more persons undertaken by Federal agencies.

This Commission has received an extension of clearance from OMB for General Orders 24 and 43, which are contained in 46 CFR Parts 522 and 552, respectively. 44 U.S.C. 3504(c)(3)(A) also requires that notice of OMB's clearance appear in the information collection requests.

The clearance information is presently included in General Orders 24 and 43; however, they must be amended to reflect OMB's latest clearance advice that expiration dates need not be shown in the Commission's rules.

Accordingly, Parts 522 and 552 are amended as follows:

**PART 522—FILING OF AGREEMENTS BY COMMON CARRIERS AND OTHER PERSONS SUBJECT TO THE SHIPPING ACT, 1916**

1. The authority citation for Part 522 reads as follows:

**Authority:** Secs. 15 and 43 of the Shipping Act, 1916 (46 U.S.C. 814 and 841(a)).

2. Revise the Note following the Authority citation to read as follows: "OMB Control Number 3072-0040."

**PART 552—CERTIFICATION OF COMPANY POLICIES AND EFFORTS TO COMBAT REBATING IN THE FOREIGN COMMERCE OF THE UNITED STATES**

1. The authority citation for Part 552 reads as follows:

**Authority:** Secs. 21 and 43 of the Shipping Act, 1916 (46 U.S.C. 820 and 841(a)).

2. Revise the OMB clearance information to read as follows: "OMB Control Number 3072-0028."

**Effective Date.** Notice, public procedure and delayed effective date are not necessary for the promulgation of this amendment because of its nonsubstantive nature. Accordingly, this amendment shall be effective upon publication in the *Federal Register*.

By the Commission, January 28, 1983.

Francis C. Hurney,  
Secretary.

[FR Doc. 83-3271 Filed 2-7-83; 8:45 am]

BILLING CODE 6730-01-M

**46 CFR Part 524**

**Exemption of Certain Agreements From the Requirements of Section 15, Shipping Act, 1916**

**AGENCY:** Federal Maritime Commission.

**ACTION:** Final rule.

**SUMMARY:** This exempts from the filing and approval requirements of section 15 of the Shipping Act, 1916 (46 U.S.C. 814) agreements concerning the co-loading by non-vessel operating common carriers of used military household goods and personal effects. Such an exemption will reduce the administrative burden which would result from the filing of these agreements, while at the same time preserving effective Commission regulation over these arrangements.

**DATE:** Effective February 8, 1983.

**FOR FURTHER INFORMATION CONTACT:** Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573 (202) 523-5725.

**SUPPLEMENTARY INFORMATION:** The Household Goods Forwarders Association of America, Inc. (HGFAA), a rate agreement previously approved by the Commission as Agreement No. 9510, has filed a Petition to exempt from the filing and approval requirements of section 15 of the Shipping Act, 1916 (46 U.S.C. 814) the joint loading of used military household goods and personal effects by and between non-vessel operating common carriers (NVOCCs) in the foreign and domestic off-shore commerce of the United States.<sup>1</sup> Notice of the filing of the Petition was published in the *Federal Register* on June 15, 1982. The Department of Defense (DOD) and The "8900" Lines (Rate Agreement No. 8900) filed comments in response to the Petition.

In its Petition, HGFAA claims that: (1) Its members are all NVOCCs of used military household goods and personal effects and that they move the preponderance of such traffic; (2) the Military Traffic Management Command (MTMC) of DOD has approved these carriers to participate in its International Through Government Bill of Lading (ITGBL) program; (3) most shipments of used household goods do

not fully occupy a steamship container and, therefore, port agents representing these NVOCCs consolidate such shipments to form a full container and pro-rate the ocean freight charges among them on a cubic measurement basis; (4) the rates filed with MTMC under the ITGBL household goods program are premised on the NVOCCs having the ability to co-load shipments with each other; (5) the co-loading of used military household goods has been a practice since the late 1950's; and (6) the carriage of military household goods involves a sole shipper, DOD, and, therefore, the joint loading of such cargo does not raise any anticompetitive implications and could not be considered unjustly discriminatory. Petitioners thus argue that their co-loading of used military household goods should be exempted from the filing and approval requirements of section 15.

DOD explains in some detail the basis and execution of the ITGBL program. It then contends that economies of scale can only be met for such a large program by the consolidation of shipments into containers, thereby permitting lower, container-load rates to apply. DOD concludes that no anticompetitive impact will result from the granting of the requested exemption. It does request, however, that if the Commission grants the exemption, it expressly indicate that Petitioners would nonetheless remain subject to the antitrust laws and those portions of the Shipping Act prohibiting unlawful discrimination.<sup>2</sup>

Section 35 of the Shipping Act, 1916 permits the Commission to exempt any class of agreements between persons subject to the Act from any requirement of the Act, where it finds that such exemption will not substantially impair its effective regulation, be unjustly discriminatory, or be detrimental to commerce (46 U.S.C. 833a). Based on the materials submitted in this proceeding, the Commission concludes that agreements or understandings concerning the joint loading by NVOCCs of used military household goods merit exemption from the filing and approval requirements of section 15. The Commission will remain able to effectively regulate such arrangements, as they will continue to be subject to all other requirements and strictures of the Shipping Act. Moreover, there is no indication or suggestion that the joint loading practices under review will be

<sup>1</sup>The membership of Agreement No. 9510 is listed in Attachment A.

<sup>2</sup>The "8900" Lines originally filed comments objecting to the requested grant of exemption. Their objection was subsequently withdrawn.

exercised in a discriminatory manner. In addition, the proposed exemption would appear to be beneficial to commerce, especially since it results in substantial savings to the shipper involved—the United States government.

It should be noted, however, that this exemption from the filing and approval requirements of section 15 does not also serve as an antitrust exemption, and the parties to such arrangements shall remain subject to the antitrust laws of the United States.

Pursuant to the Regulatory Flexibility Act (5 U.S.C. 601, *et seq.*), the Commission has considered the impact which this rule might have on small businesses, organizations, and governmental jurisdictions—"small entities"—and has concluded that it will not impose additional reporting or record-keeping requirements which might result in a significant compliance or reporting burden on small entities. Accordingly, neither a full regulatory evaluation nor a regulatory impact analysis has been conducted or prepared.

#### List of Subjects in 46 CFR Part 524

Maritime carriers, Reporting and recordkeeping requirements.

#### PART 524—[AMENDED]

Therefore, it is ordered, That pursuant to sections 35 and 43 of the Shipping Act, 1916 (46 U.S.C. 833a and 841a) and 5 U.S.C. 553, 46 CFR Part 524 is hereby amended by the addition of the following definition to § 524.2:

##### § 524.2 Definitions.

(f) A military household goods agreement is an agreement between non-vessel operating common carriers by water in the foreign or domestic off-shore commerce of the United States concerning the joint loading of used military household goods and personal effects.

By the Commission.  
Francis C. Hurney,  
Secretary.

#### Attachment A

AABCO, Inc.  
AFI Worldwide Forwarders  
Air Van Lines, Inc.  
Allied Freight Forwarding Incorporated  
Allied Van Lines International Corp.  
American Ensign Van Service, Inc.  
American Expeditors, Inc.  
American Forwarding, Inc.  
American Moving Systems, Inc.  
American Vanpac Carriers, Inc.  
American World Forwarders, Inc.  
Apex Forwarding Co., Inc.

Arnold International Movers, Inc.  
Astron Forwarding Company  
Atlas Van Lines International Corporation  
Aurora International Forwarding, Inc.  
Bekins International Lines, Inc.  
Bekins Wide World Service, Inc.  
Burnham World Forwarders, Inc.  
Cartwright International Van Lines, Inc.  
Container Moving International, Inc.  
Crest-Mayflower International, Inc.  
Crown Overseas Forwarders  
CVL Forwarders  
Davidson Forwarding Company  
Dean Forwarding Company, Inc.  
Delcher Intercontinental Moving Service, Inc.  
DeWitt Freight Forwarding  
Dyer International, Inc.  
Express Forwarding and Storage Co., Inc.  
Ford Pak, Inc.  
Four Winds Forwarding, Inc.  
Global Forwarding, Inc.  
H C & D Forwarders International, Inc.  
H & S Forwarders, Inc.  
Home-Pack Transport, Inc.  
Imperial Van Lines International, Inc.  
InterIntra Forwarding, Inc.  
International Export Packers, Inc.  
International Services, Inc.  
Interstate World Forwarders, Inc.  
Interstate International, Inc.  
Ivory Forwarding, Inc.  
Jet Forwarding, Inc.  
Jeuro-Pak, Division of Jeuro Container Transport (U.S.A.)  
Karevan, Inc.  
Lyon Worldwide Shipping, Inc.  
Mollerup Freight Forwarding Co.  
Northwest Consolidators, Inc.  
Ocean-Air International, Inc.  
Omni Moving & Storage of Virginia, Inc.  
Perfect Pak Company  
Pyramid International Forwarding, Inc.  
Rebel Forwarding, Inc.  
Richardson Forwarding Company  
Routed Thru-Pac, Inc.  
Sam's Vans, Inc.  
Security Forwarders, Inc.  
Sentry Household Shipping, Inc.  
Stevens Forwarders, Inc.  
Suddath Van Lines, Inc.  
Swift International, Inc.  
Towne International Forwarding, Inc.  
Tucor Services, Inc.

[FR Doc. 83-3276 Filed 2-7-83; 8:45 am]  
BILLING CODE 6730-01-M

#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

##### 50 CFR Part 658

[Docket No. 30127-18]

##### Shrimp Fishery off Texas

**AGENCY:** National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Rule related notice.

**SUMMARY:** NOAA issues notice that no geographical adjustments to the closure to shrimp fishing off the State of Texas will be made for the 1983 season. This action is taken according to the Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico. The intended effect of this action is to maintain the closure so shrimp can attain a larger size and a greater economic value.

##### FOR FURTHER INFORMATION CONTACT:

Jack T. Brawner, Regional Director, Southeast Region, National Marine Fisheries Service, 9450 Koger Boulevard, St. Petersburg, Florida 33702; telephone number: 813-893-3141.

**SUPPLEMENTARY INFORMATION:** The Fishery Management Plan for the Shrimp Fishery of the Gulf of Mexico (FMP) was approved May 29, 1980, under authority of the Magnuson Fishery Conservation and Management Act. Final regulations implementing the FMP were published in the *Federal Register* on May 20, 1981, at 46 FR 27489. Amendment No. 1 to the FMP, prepared by the Gulf of Mexico Fishery Management Council (Council), provides for modification of the boundaries of two closed areas identified in the FMP. This amendment was approved on April 6, 1982 (47 FR 20310). Regulations were not proposed at that time; instead, whenever a closure modification is considered necessary, it will be implemented by regulatory amendment published in the *Federal Register*.

The FMP as amended provides that the Assistant Administrator for Fisheries, NOAA, in January consider geographic modification of the closed area identified at the Texas Closure in 50 CFR 658.24. The amendment requires that an annual analysis of the effect of the closure be prepared by the National Marine Fisheries Service (NMFS) and submitted to the Council. After reviewing this analysis and consulting with the Council, NOAA may modify the geographic scope of the closure through an amendment to the regulations implementing the FMP.

The effects of the 1982 closure of the fishery conservation zone off the State of Texas have been monitored by NMFS. NOAA has reviewed the analysis of these effects, submitted the analysis to the Council, and, after

consulting with the Council, determined the monitoring information does not indicate any need to modify the geographic scope of the Texas closure for the 1983 shrimp season.

(16 U.S.C. 1801 *et seq.*)

Dated: January 31, 1983.

**Carmen J. Blondin,**

*Acting Deputy Assistant Administrator for Fisheries Resource Management, National Marine Fisheries Service.*

[FR Doc. 83-3012 Filed 2-7-83; 8:45 am]

**BILLING CODE 3510-22-M**



# Proposed Rules

Federal Register

Vol. 48, No. 27

Tuesday, February 8, 1983

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

## DEPARTMENT OF AGRICULTURE

### Office of the Secretary

#### 7 CFR Part 20

#### Export Sales Reporting of Wet Blue Cattle Hides

**AGENCY:** Foreign Agricultural Service, USDA.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This proposed rule would amend the Export Sales Reporting Regulations (7 CFR Part 20) to add "wet blue" cattle hides to the list of the types of cattle hides and skins to be reported. The addition of wet blues would expand the reporting coverage to include all currently significant raw materials used in the manufacture of finished leather. This rule also revises the description of the types of cattle hides and skins to be reported and changes the reporting unit of certain items from number of pieces to hide equivalent number.

**DATE:** In order to be considered, written comments must be received on or before March 10, 1983.

**ADDRESS:** Mail all written comments to the Director, Export Sales Reporting Division, Foreign Agricultural Service, U.S. Department of Agriculture, Room 4919-South Building, Washington, D.C. 20250. All written comments made pursuant to this notice will be available for public inspection at the above address during business hours from 8:30 a.m. to 5:00 p.m., Monday through Friday.

**FOR FURTHER INFORMATION CONTACT:** Thomas B. McDonald, Acting Director, Export Sales Reporting Division, FAS, Room 4919-South Agricultural Building, Washington, D.C., 20250, telephone (202) 447-5651.

**SUPPLEMENTARY INFORMATION:** This proposal has been reviewed under USDA procedures required by Executive Order 12291 and Secretary's Memorandum No. 1512-1 and has been classified "non-major." It has been

determined that these program provisions will not result in: (1) An annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers; individual industries; Federal, State or local government agencies or geographic regions; or (3) significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

It has been determined that this proposed rule will not have a significant economic impact on a substantial number of small entities. In accordance with the Regulatory Flexibility Act, a copy of this proposed rule has been submitted to the Chief Counsel, Office of Advocacy, U.S. Small Business Administration.

The Export Sales Reporting program is approved under OMB No. 40 R 3886, effective through April 30, 1983.

The reporting of export sales transactions involving cattle hides and skins has been required since May 12, 1980, (45 FR 24439), under the authority of section 7(g) of the Export Administration Act of 1979 (Pub. L. 96-72). The legislation and implementing regulations require the reporting of "hides and skins." Wet blues are hides and skins which have been tanned with chromium salts but not further processed and are sold in a wet condition. Up to now, the Department has only required the reporting of hides and skins sold and exported in the salt or brine cured stage and have not required wet blues to be reported. No action was taken to require that wet blues be included in the exporter's reports because wet blues had made up only a relatively insignificant portion of the volume of hide and skin exports. It has recently been determined that wet blues are rapidly rising in importance in world trade. For calendar year 1982, wet blues with a total value of \$95 million were exported as compared with \$56 million in 1981 and \$55 million in 1980. Consequently, it is felt that the reporting of wet blues is necessary to accurately reflect the export trade in hides and skins.

Since the Department has not previously required wet blues to be reported, it is appropriate to propose a specific change in the regulations and

invite comments thereon prior to a final decision to require the inclusion of wet blues in the reporting program.

This proposed amendment also would change the reporting unit to be utilized when reporting hides and skins cut into croupions, crops, dossets, sides, butts or butt ends. Under the proposal, such items would be reported in terms of the hide equivalent number rather than number of pieces.

If the proposal is adopted, there would be only a nominal additional cost to the industry or government since most sellers of hides and skins are currently filing weekly reports.

Secretary's Memorandum No. 1512-1 generally requires a 60 day comment period for proposed rules unless an emergency exists or the nature of the rule warrants a shorter period. It is felt that the nature of this rule is such that a 30 day comment period would be adequate to obtain meaningful comments from interested persons. This is because hides and skins have been subject to the export sales reporting program for almost three years and most persons affected by the proposal are fully familiar with the obligations and procedures required by the reporting regulations. Also, a shorter comment period is desirable in order to begin, at an earlier date, to collect and publish data more accurately reflecting the impact of foreign demand on the hide and skin market.

In accordance with the Paperwork Reduction Act of 1980, (44 U.S.C. 3507), the reporting or recordkeeping provisions that are included in this proposed rule will be submitted for approval to the Office of Management and Budget (OMB). They are not effective until OMB approval has been obtained.

#### List of Subjects in 7 CFR Part 20

Agricultural commodities, Exports, Reporting requirements.

In consideration of the foregoing it is proposed to amend 7 CFR Part 20 as follows:

1. The authority citation for Part 20 reads as follows:

Authority: Sec. 812, Pub. L. 91-524, as added by Pub. L. 93-86, sec. 1(27)(B), 87 Stat. 238 (7 U.S.C. 612c-3); sec. 7(g), Pub. L. 96-72, 93 Stat. 519 (50 U.S.C. App. 2406(g)).

2. Appendix I is amended by revising all items relating to "Cattle hides and skins" to read as follows:

Commodity to be reported	Unit of measure to be used in reporting	Beginning of marketing year	End of marketing year
Cattle hides and skins—Whole cattle hides, excluding wet blues.	Pieces.....	Jan. 1.....	Dec. 31
Cattle hides and skins—Whole calf skins, excluding wet blues.	.....do.....	.....do.....	Do.
Cattle hides and skins—Whole kip skins, excluding wet blues.	.....do.....	.....do.....	Do.
Cattle hides and skins—Cattle, calf and kip, excluding wet blues, cut into croupions, crops, dossets, sides, butts or butt ends (hide equivalent).	Number.....	.....do.....	Do.
Cattle hides and skins—Cattle, calf and kip, excluding wet blues, in cuts not otherwise specified.	Pounds.....	.....do.....	Do.
Cattle, calf and kip, wet blues—grain portion only, full thickness or split (hide equivalent).	Number.....	.....do.....	Do.
Cattle, calf and kip, wet blues—splits, excluding grain portion.	Pounds.....	.....do.....	Do.

Issued at Washington, D.C., this 2d day of February 1983.

Leo V. Mayer,

Acting Administrator, Foreign Agricultural Service.

[FR Doc. 83-3288 Filed 2-7-83; 8:45 am]

BILLING CODE 3410-10-M

## Agricultural Marketing Service

### 7 CFR Part 1030

#### Milk in the Chicago Regional Marketing Area; Proposed Temporary Revision of Shipping Standards

AGENCY: Agricultural Marketing Service, USDA.

**ACTION:** Proposed temporary revision of rule.

**SUMMARY:** This notice invites written comments on a proposal that the supply plant shipping requirements under the Chicago Regional milk order be decreased temporarily for the month of March 1983. This action was requested by cooperative associations representing a majority of the producers supplying the market in order to prevent uneconomic movements of milk from supply plants to distributing plants.

**DATE:** Comments are due not later than February 18, 1983.

**ADDRESS:** Comments (two copies) should be filed with the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

**FOR FURTHER INFORMATION CONTACT:** Martin J. Dunn, Marketing Specialist, Dairy Division, U.S. Department of Agriculture, Washington, D.C. 20250, (202) 447-7311.

**SUPPLEMENTARY INFORMATION:** This proposed action has been reviewed under USDA procedures established to implement Executive Order 12291 and has been classified as a "non-major" action.

It has been determined that any need for adjusting certain provisions of the order on an emergency basis precludes following certain review procedures set forth in Executive Order 12291. Such procedures would require that this document be submitted for review to the Office of Management and Budget at least 10 days prior to its publication in the *Federal Register*. However, this would not permit the completion of the required procedures in time to give interested parties timely notice that the shipping requirement for pool supply plants for March 1983 would be modified. The initial request for this action was received January 25, 1983.

William T. Manley, Deputy Administrator, Agricultural Marketing Service, has determined that this proposed action would not have a significant economic impact on a substantial number of small entities. Such action would lessen the regulatory impact of the order on certain milk handlers.

Notice is hereby given that, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the provisions of § 1030.7(b)(5) of the order, the temporary revision of certain provisions of the order regulating the handling of milk in the Chicago Regional marketing area is being considered for the month of March 1983.

All persons who desire to submit written data, views or arguments about the proposed revision should send two copies of their views to the Hearing Clerk, Room 1077, South Building, U.S. Department of Agriculture, Washington, D.C. 20250, not later than 10 days from the date of publication of this notice in the *Federal Register*. The period for filing comments is somewhat limited to enable the timely consideration of this matter since the proposed action would be applicable to milk shipments made during March 1983.

All written comments made pursuant to this matter will be made available for public inspection in the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

The provisions proposed to be revised is the shipping percentage for supply plants and units of supply plants set forth in § 1030.7(b) that is applicable during the month of March 1983. It has been requested that the shipping requirement be reduced temporarily from 20 percent to 15 percent for March.

Pursuant to the provisions of § 1030.7(b)(5), the supply plant shipping percentages as set forth in § 1030.7(b) may be increased or decreased by up to 10 percentage points during the months of September through March to encourage additional milk shipments to pool distributing plants or to prevent uneconomic shipments to those plants.

The cooperative associations requesting the temporary revision indicate that two situations prompt their request for a reduction in the minimum shipping percentage. During February, it is expected that a Chicago pool distributing plant may stop bottling milk. The distributing plant unit of which it is now a part would then cease to exist. With the loss of fluid milk sales due to the plant's closure, fewer shipments of milk from supply plants may qualify as producer milk under the order. Secondly, the cooperative associations indicate that they plan to begin delivering direct-shipped producer milk to another distributing plant in the Chicago area. These direct-shipped milk deliveries will result in fewer needed shipments from supply plants.

Due to these anticipated changes in supply conditions for the market, it may be appropriate to reduce somewhat the pool supply plant shipping percentage for March 1983. Such action could prevent uneconomic movements to milk. Also, a reduction could assure that producers who have been regularly associated with the fluid market can continue to share in the pool proceeds of the market.

**List of Subjects in 7 CFR Part 1030**

Milk marketing orders, Milk, Dairy products.

Signed at Washington, D.C., on: February 3, 1983.

Edward T. Coughlin,  
Director, Dairy Division.

[FR Doc. 83-3370 Filed 2-7-83; 8:45 am]

BILLING CODE 3410-02-M

**DEPARTMENT OF ENERGY****10 CFR Part 205**

[Docket No. EP-40-83-1]

**Report of Major Electric Utility System Emergencies**

**AGENCY:** Energy Department.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Office of Environmental Protection, Safety, and Emergency Preparedness (EP) of the Department of Energy (DOE) proposes to amend the regulations set forth at 10 CFR 205.350, *et seq.* which require reports of major electric utility system emergencies. The proposed amendments update the regulations to reflect current DOE organization and responsible officials and delete certain reporting provisions which are now voluntary. In addition, EP requests comments as to what, if any, other amendments might be appropriate.

**DATES:** Comments by March 10, 1983.

**ADDRESSES:** Send comments to Office of Energy Emergency Operations, Department of Energy, Forrestal Building, Mail Stop GB-270, 1000 Independence Avenue, SW., Washington, D.C. 20585.

**FOR FURTHER INFORMATION CONTACT:**

Louis A. Wofsy, Office of Energy Emergency Operations (EP-42), Department of Energy, Forrestal Building, Mail Stop GB-270, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-1048

William Funk, Office of General Counsel for Regulatory Oversight, Department of Energy, Forrestal Building, Mail Stop GC-12, 1000 Independence Avenue, SW., Washington, D.C. 20585, (202) 252-6736

**SUPPLEMENTARY INFORMATION:****I. Background**

On January 12, 1981 the Economic Regulatory Administration (ERA) of DOE issued rules to carry out its responsibilities under Sections 202(a) and 311 of the Federal Power Act regarding reporting of major electric

utility system emergencies. Those functions were transferred to the Secretary of Energy under Section 301(b) of the DOE Organization Act, and subsequently delegated by the Secretary to the ERA Administrator. Since then responsibility for emergency programs has been transferred to the Office of Environmental Protection, Safety, and Emergency Preparedness (EP).

Generally, Section 202(a) of the Federal Power Act authorizes such action as is necessary to assure an abundant supply of electric energy throughout the country, and Section 311 provides for the collection of data for the purpose of reporting the problems and developments of the electric power industry to Congress. To satisfy these mandates of the FPA, DOE adopted certain reporting requirements on impending major electric utility system emergencies, customer load reductions, and significant service interruptions in bulk electric power supply and actions to minimize their impact. The current regulations (10 CFR 205.350-355) became effective January 1, 1981 (46 FR 2956, January 12, 1981).

**II. Proposed Amendments**

Generally, the proposed amendments up-date the existing rules to reflect the current organization of DOE and delete certain non-mandatory reporting requirements which appear to be no longer useful. The amendments proposed today, therefore, are merely technical in nature and raise no substantial issues of fact or law.

**A. Proposed Technical Amendments**

Proposed amendments to reflect current DOE organization are as follows:

1. Section 205.350—"Economic Regulatory Administration (ERA)" is proposed to be "Office of Environmental Protection, Safety, and Emergency Preparedness (EP)";

2. Section 205.351—"DOE/ERA Electric Power Monitoring Center (EPMC)" is proposed to be "EP Alert Coordination Officer (ACO)";

3. Section 205.351 (a) through (f)—"ERA" is proposed to be "ACO";

4. Section 205.352—"EPMC" is proposed to be "ACO" and "ERA" is proposed to be "DOE";

5. Section 205.353—"Utilities shall notify the EPMC by telephone" is proposed to be "The ACO shall be notified", and

6. Section 205.354—"ERA's Director of the Division of Power Supply and Reliability" is proposed to be "Director, Office of Energy Emergency Operations."

**B. Proposed Deletions**

Pursuant to § 205.351, *Reporting Requirements*, electric utilities or other covered entities are required to report certain events to DOE. DOE proposes to amend this section by deleting one subsection and example in order to clarify the rule and to eliminate the reporting requirements in § 205.355 which DOE no longer needs.

First under § 205.351(d) reports are required when any electric power supply equipment or facility fails and thereby constitutes a hazard to the current or prospective adequacy or reliability of the entity's bulk electric power supply system. The rule sets forth examples of situations which may be reportable under the regulations. DOE proposes to delete example (4):

A power system frequency decline to 59.7 Hz or lower that results in the loss of any firm customer load.

DOE believes this deletion will clarify the reporting requirement and make clearer DOE's intent of when a report should be filed under the provision.

Second, DOE proposes to delete § 205.351(g) which provides that:

The ordered shutdown or operating limitation by any Federal, state, or local government agency of any generating unit with a nameplate rating greater than 400 MW which results in a reduction exceeding 25 percent of the nameplate rating. Long-term limitations based on ambient environmental conditions should be reported initially and thereafter only when a change occurs. (ERA shall be notified as soon as practicable after the issuance of such an order, but not later than the next working day.)

DOE's experience with the existing regulations has shown that instances of the type required to be reported under this subsection have not been causing reliability problems for the affected utilities. In instances where situations described in § 205.351(g) do pose a reliability problem, reporting would be appropriately made under the provisions of § 205.351(d). Therefore deletion of § 205.351(g) should reduce the reporting burden on the respondents while not impacting upon DOE's ability to gather information concerning significant reliability problems.

Third, pursuant to § 205.355 utilities and other covered entities are requested to prepare and maintain voluntary contingency plans for emergency situations. DOE further requests that a copy of the plans be filed with DOE. DOE proposes to eliminate § 205.355 in its entirety because DOE believes most affected entities have developed and continue to maintain such plans.

In addition to the above proposed amendments, DOE is prepared to make other amendments to the reporting requirements in light of public comments. Where commenters believe the existing regulations impose an unnecessary burden on the industry, they should identify as specifically as possible the nature and extent of the burden actually suffered during the past two years.

### III. Comment Procedures

#### A. Written Comments

You are invited to participate in this proceeding by submitting information, views, or arguments with respect to the proposed amendments of 10 CFR Part 205. Comments should be submitted no later than March 10, 1983 to the address indicated in the "ADDRESSES" section of this preamble and should be identified on the outside envelope and on the document with the docket number and the designation: "Report of Major Electric Utility Systems Emergencies, Docket No. EP-40-83-1." Two copies should be submitted. All comments received will be available for public inspection in the DOE Reading Room, Room 1E190, James Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C. 20585, between the hours of 8:00 a.m. and 4:00 p.m., Monday through Friday.

Any information or data submitted which you consider to be confidential must be so identified and submitted in writing, one copy only. DOE reserves the right to determine the confidential status of such information or data and to treat it according to its determination.

#### B. Public Hearing

DOE believes that the amendments proposed in this Notice present no substantial issues of fact or law and are unlikely to have a substantial impact on the Nation's economy or large numbers of individuals or businesses. Accordingly, DOE is not scheduling a public hearing as provided by section 501(c) of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, and the Administrative Procedure Act (5 U.S.C. 553). If a significant number of persons should request an opportunity for oral presentation of views, data and arguments, a public hearing could be held after public notice.

### IV. Other Matters

#### A. Executive Order 12291

Section 3 of Executive Order (E.O.) 12291 (46 FR 13193, February 19, 1981) requires that DOE determine whether a proposed rule is a "major rule," as

defined by section 1(b) of E.O. 12291, and prepare a regulatory impact analysis for each major rule. Since the proposed amendments either would eliminate regulatory requirements or update the rules to reflect DOE's current organization, DOE has determined that the proposed amendments do not meet the E.O. 12291 definition of a major rule as one likely to result in: (1) An annual effect on the economy of \$100 million or more; (2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets. Accordingly, a regulatory impact analysis is not required.

#### B. Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 Pub. L. 96-354, (5 U.S.C. 601-612) requires, in part, that an agency prepare an initial regulatory flexibility analysis for any proposed rule, unless it determines that the rule will not have a "significant economic impact" on a substantial number of small entities. The proposed amendments will not impose any additional burdens or impact on small entities, but rather they will reduce an obligation on certain entities. Therefore, DOE does not believe the obligation involved has a significant impact on small entities, and accordingly, as required by section 603(b), DOE certifies that the amendment will not have a significant economic impact on a substantial number of small entities.

#### C. Environmental Review

DOE has determined that that proposed amendment, which is essentially administrative in nature, clearly is not a major Federal action with significant environmental impact. Consequently, the proposed amendment does not require preparation of an Environmental Assessment or Environmental Impact Statement under the National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 *et seq.*

#### D. Paperwork Reduction Act

The existing reporting requirement contained in Section 205.351 has been approved by OMB and assigned the control number, 1903-0045. This notice has been submitted to OMB for its comments under Section 3504(h) of the Paperwork Reduction Act.

### List of Subjects in 10 CFR Part 205

Electric power, Electric utilities, Reporting requirements.

(Department of Energy Organization Act, Pub. L. 95-91, (42 U.S.C. Section 7101), Federal Power Act, Pub. L. 86-280, (16 U.S.C. Section 791 *et seq.*)

In consideration of the foregoing, Chapter II, Title 10 of the Code of Federal Regulations is proposed to be amended as set forth below.

Issued in Washington, D.C., January 31, 1983.

William A. Vaughan,  
Assistant Secretary, Environmental  
Protection, Safety, and Emergency  
Preparedness.

### PART 205—[AMENDED]

Title 10, Part 205, Subpart W, §§ 205.350, 205.351, 205.352, 205.353, and 205.354 are revised and § 205.355 is removed to read as follows:

#### Subpart W—Electric Power System Permits and Reports; Applications; Administrative Procedures and Sanctions

##### Report of Major Electric Utility System Emergencies

#### § 205.350 General Purpose.

The purpose of this rule is to establish a procedure for the Office of Environmental Protection, Safety, and Emergency Preparedness (EP) to maintain current information regarding the status of the electric energy supply systems in the United States so that appropriate Federal emergency response measures are implemented in a timely and effective manner. This data also may be utilized in developing legislative recommendations and other reports to the Congress.

#### § 205.351 Reporting Requirements.

For the purpose of this section, a report or a part of a report may be made jointly by two or more entities. Every electric utility or other subject entity engaged in the generation, transmission or distribution of electric energy shall report promptly to the EP Alert Coordination Officer (ACO) any events as described in subparagraphs (a) through (f) of this section:

(a) The issuance of any public or private request to any customer or the general public to reduce the use of electricity for reasons of maintaining the continuity of service of the reporting entity's bulk electric power supply system. Requests to a customer(s) served under provisions of an interruptible contract are not a reportable action unless the request is

made for reasons of maintaining the continuity of service of the reporting entity's bulk electric power supply system. (ACO shall be notified as soon as practicable, but no later than 24 hours after the issuance of such a request.)

(b) Any intentional reduction of system voltage by 3 percent or greater for reasons of maintaining the continuity of service of the reporting entity's bulk electric power supply system. (ACO shall be notified as soon as practicable, but no later than 24 hours after the initiation of the action.)

(c) Any load shedding action that results in the reduction of over 100 megawatts (MW) of firm customer load for reasons of maintaining the continuity of service of the reporting entity's bulk electric power supply system. The routine use of load control equipment that reduces firm customer load is not considered to be a reportable action. (ACO shall be notified within three hours after such action is taken if practicable, or as soon thereafter as practicable.)

(d) Any electric power supply equipment or facility failure or other event that, in the judgment of the reporting entity, constitutes a hazard to the current or prospective adequacy and/or reliability of the reporting entity's bulk electric power supply system. (ACO shall be notified as soon as practicable; however reports are expected within one business day after such determination.) Examples of situations which *may* be reportable under this provision *could* be ones which:

(1) Cause the operating area to be dependent upon neighboring utilities for large quantities of unscheduled electricity deliveries to supply the operating area's loads for longer than three consecutive hours;

(2) Cause a significant increase in the use of a fuel for generating equipment, such that replacement of this fuel may be a problem;

(3) Are caused by a suspected act of physical sabotage.

(e) Any outage that extends for greater than 15 minutes and affects firm loads totaling over 100 MW, or more than 50 percent of the total load being supplied by the reporting entity's system immediately prior to the incident, whichever is less. However, utilities with a peak load in the prior year of over 3000 MW are only to report those losses of service to firm loads totaling over 200 MW for greater than 15 minutes. (ACO shall be notified as soon as practicable without unduly interfering with service restoration and, in any event, within three hours after the beginning of the interruption.)

(f) Any significant incident on an electric utility system which results in a continuous outage of three hours or longer to over 50,000 customers (meters, delivery points) or more than one half of the reporting entity's total customers, whichever is less. (ACO shall be notified within 24 hours of the occurrence if practicable, or as soon thereafter as practicable.)

(OMB Control No. 1903-0045)

#### § 205.352 Information to be reported.

The power supply data shall be supplied to the ACO in accordance with the current DOE pamphlet on reporting procedures. The initial report should include the utility name; the area affected; the time of occurrence of the initiating event; the duration or an estimate of the likely duration; an estimate of the number of customers and amount of load involved; and whether any known critical services such as hospitals, military installations, pumping stations, or air traffic control systems, were or are interrupted. To the extent known or suspected, the report shall include a description of the events initiating the disturbance. The DOE may require further clarification during or after restoration of service.

#### § 205.353 Fuel emergencies.

The ACO shall be notified whenever a utility or other subject entity determines that a fuel supply emergency exists or is projected to occur. A fuel supply emergency exists when supplies of fuels or hydroelectric storage for generation are at a level or projected to be at a level which would threaten the reliability or adequacy of electric service. The following factors should be taken into account to determine whether a fuel emergency exists: (a) fuel stocks or hydro storage levels are 50 percent or less of normal for that particular time of the year and; (b) a continued downward trend in fuel stocks or hydro storage levels is projected. (ACO shall be notified as soon as practicable, but no later than three days after the determination is made.)

#### § 205.354 Special investigations and reports.

If directed by the Director, Office of Energy Emergency Operations in writing and noticed in the *Federal Register*, a utility or other subject entity experiencing a condition described in § 205.351 above shall submit a full report of the technical circumstances surrounding the power system disturbance, including the restoration procedures utilized. The report shall be

filed at such time as may be directed by the Director, Office of Energy Emergency Operations.

#### § 205.355 [Removed]

[FR Doc. 83-3296 Filed 2-7-83; 8:45 am]

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## FEDERAL RESERVE SYSTEM

### 12 CFR Part 204

[Docket No. R-0451]

#### Regulation D; Reserve Requirements of Depository Institutions; Ineligible Bankers' Acceptances

**AGENCY:** Board of Governors of the Federal Reserve System.

**ACTION:** Proposed rulemaking.

**SUMMARY:** Under the Board's current Regulation D—Reserve Requirements of Depository Institutions (12 CFR Part 204), a bankers' acceptance ("BA") that does not meet the criteria of section 13 of the Federal Reserve Act ("ineligible BA") is regarded as a reservable deposit only if it is created, discounted, and sold by the *same* depository institution. In order to avoid reserve requirements, some banks have recently entered into arrangements with brokers and other third parties that provide for the issuance of an ineligible BA by the bank and the subsequent discount and/or resale by a third party. To prevent the use of this device as a means of avoiding reserve requirements, the Board proposes to amend Regulation D such that the creation of an ineligible BA results in a reservable liability regardless of whether the depository institution that creates the BA subsequently discounts and/or sells it.

**DATE:** Comments must be received by March 18, 1983.

**ADDRESS:** Interested parties are invited to submit written data, views, or arguments concerning the proposed rule to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, D.C. 20551, or such comments may be delivered to room B-2223 between 8:45 a.m. and 5:15 p.m. Comments may be inspected in room B-1122 between 8:45 a.m. and 5:15 p.m., except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information (12 CFR 261.6(a)).

**FOR FURTHER INFORMATION CONTACT:** Gilbert T. Schwartz, Associate General Counsel (202/452-3625); Paul S. Pilecki,

Senior Attorney (202/452-3281); or Robert G. Ballen, Attorney (202/452-3265), Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

**SUPPLEMENTARY INFORMATION:** Section 19(a) of the Federal Reserve Act authorizes the Board to determine what types of obligations are reservable deposits (12 U.S.C. 461(a)). In addition, section 19(a) grants the Board authority to prescribe regulations necessary to prevent evasions of reserve requirements.

Regulation D currently regards an ineligible BA as a reservable deposit only if it is created, discounted, and sold by the same depository institution. Some banks have recently entered into agented BA arrangements with brokers and other third parties that provide for the issuance of an ineligible BA by the bank and the subsequent discount and/or resale by the third party. Since the bank issuing the BA did not discount and resell the acceptance, currently it is not required to maintain reserves against the BA. Similarly, the third party depository institution that discounts and/or resells the BA pursuant to such an arrangement would not be subject to reserve requirements on the transaction since it did not issue the BA. The Board believes that these arrangements serve only as a device to avoid reserve requirements under Regulation D. In order to prevent reserve requirement evasion, the Board proposes to amend Regulation D such that the creation of an ineligible BA results in a reservable deposit regardless of whether the depository institution that creates the BA subsequently discounts and/or sells it. The Board notes that where the party discounting or selling the BA is not the same institution that created the BA, it is in many cases difficult, if not impossible, to determine whether the discount and sale of the BA have occurred pursuant to a prearranged agented BA transaction. Commenters may also wish to address whether reserve requirements should be applied *only* to agented BA transactions and how such agented arrangements may be identified—in addition to comments on other aspects of the proposal.

It should be noted that under the proposal reserve requirements would not apply to an ineligible BA that the issuing institution itself discounts and holds since under current practices, such acceptances are not regarded as acceptances outstanding. Further, due to equity considerations, the Board proposes that this amendment not apply to outstanding ineligible BAs that were created prior to the announcement of the

proposed amendment. Depository institutions would be on notice that under the proposal all ineligible BAs created after the date of the announcement would be subject to reserve requirements even if the creating institution did not itself discount and sell the acceptance. Comments on this proposed amendment must be received by March 18, 1983.

The impact of this proposal on small entities has been considered in accordance with section 603 of the Regulatory Flexibility Act (Pub. L. 96-354; 5 U.S.C. 603). Section 411 of the Garn-St Germain Depository Institutions Act of 1982 (Pub. L. 97-320; 96 Stat. 1520) provides for an exemption from reserve requirements for the first \$2.1 million in reservable liabilities at all depository institutions. The Board believes that its proposed action would not add any reserve requirement burden to small depository institutions that have zero reserve requirements as a result of section 411 of the Garn-St Germain Act. In addition, small entities typically do not issue ineligible BAs. No new recordkeeping or reporting requirements will be imposed as result of this action.

#### List of Subjects in 12 CFR Part 204

Banks, banking, Currency, Federal Reserve System, Penalties, Reporting and recordkeeping requirements.

#### PART 204—[AMENDED]

Pursuant to its authority under section 19 (a) of the Federal Reserve Act (12 U.S.C. 461(a)), the Board proposes to amend § 204.2 of Regulation D (12 CFR Part 204) by redesignation existing paragraph (a)(1)(vii) as (a)(1)(viii); and by amending newly redesignated (a)(1)(viii) by removing the words "banker's acceptance," by adding the word "or" at the end of subparagraph (C), by changing the semi-colon at the end of subparagraph (D) to a period, by removing the word "or" at the end of subparagraph (D), and by removing subparagraph (E) and by adding a new paragraph (a)(1)(vii) to read as follows:

#### § 204.2 Definitions.

\* \* \* \* \*

(a)(1) \* \* \*

(vii) any liability of a depository institution that arises from the creation after January 31, 1983, of a bankers' acceptance that is not of the type describe in paragraph 7 of section 13 of the Federal Reserve Act (12 U.S.C. 372); or

\* \* \* \* \*

By order of the Board of Governors,  
February 1, 1983.

William W. Wiles,  
Secretary of the Board.

[FR Doc. 83-3210 Filed 2-7-83; 8:45 am]

BILLING CODE 6210-01-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Food and Drug Administration

#### 21 CFR Parts 172, 182, and 184

[Docket No. 78N-0349]

#### Certain Glycerides; Proposed Affirmation of GRAS Status

**AGENCY:** Food and Drug Administration.

**ACTION:** Proposed rule.

**SUMMARY:** The Food and Drug Administration (FDA) is proposing to affirm that mono- and diglycerides, diacetyl tartaric acid esters of mono- and diglycerides, monosodium phosphate derivatives of mono- and diglycerides, glyceryl monostearate, glyceryl monooleate, triacetin, and tributyrin are generally recognized as safe (GRAS) as direct human food ingredients. The agency is also proposing to remove glyceryl monooleate from the list of food additives. The safety of these ingredients has been evaluated under a comprehensive safety review conducted by the agency. A proposal to affirm glycerin as GRAS appears elsewhere in this issue of the Federal Register.

**DATE:** Comments by April 11, 1983.

**ADDRESS:** Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Susan Thompson, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-9463.

**SUPPLEMENTARY INFORMATION:** FDA is conducting a comprehensive review of human food ingredients classified as GRAS or subject to a prior sanction. The agency has issued several notices and proposals (see the Federal Register of July 26, 1973 (38 FR 20040)) initiating this review, under which the safety of mono- and diglycerides, diacetyl tartaric acid esters of mono- and diglycerides, monosodium phosphate derivatives of mono- and diglycerides, glyceryl monostearate, glyceryl monooleate, triacetin, and tributyrin has been evaluated. In accordance with the provisions of § 170.35 (21 CFR 170.35),



the agency proposes to affirm the GRAS status of these ingredients. The agency is proposing no action on the prior-sanctioned status of sodium sulfoacetate derivatives of mono- and diglycerides, which are currently listed in the standards of identity for margarine.

In its report, the Select Committee on GRAS Substances (the Select Committee) also evaluated the safety of acetooleins, acetostearins, glyceryl lactopalmitate, glyceryl lactooleate, monoglyceride citrate, and oxystearin. However, these substances are food additives regulated under § 172.828 (acetooleins, acetostearins), § 172.852 (glyceryl lactopalmitate, glyceryl lactooleate), § 172.832 (monoglyceride citrate), and § 172.818 (oxystearin) (21 CFR 172.828, 172.852, 172.832, and 172.818). The agency is not addressing the safety of these additives at this time but will consider the information evaluated by the Select Committee in an upcoming review of the safety of food additives.

Mono- and diglycerides were first used in foods in the United States in 1911. They are composed of esters of glycerin in which one or two of the hydroxy groups of glycerin are esterified by fatty acids. The most prevalent fatty acids include lauric, linoleic, myristic, oleic, palmitic, and stearic acid. Mono- and diglycerides do not occur naturally in appreciable quantities, except in fats that have undergone partial hydrolysis. These glycerides are manufactured by the glycerolysis of edible fats and oils or by the esterification of glycerin with edible fatty acids that meet the requirements of § 172.860 (21 CFR 172.860), with or without molecular distillation of the products.

Mono- and diglycerides from glycerolysis of edible fats or oils were listed as GRAS as emulsifying agents in a regulation published in the *Federal Register* of November 20, 1959 (24 FR 9368). Subsequently, this listing was replaced by the listing of mono- and diglycerides of edible fats or oils, or of edible fat-forming fatty acids, as GRAS as emulsifying agents in a regulation published in the *Federal Register* of December 2, 1964 (29 FR 16079). These substances are currently listed as GRAS for this use in § 182.4505 (21 CFR 182.4505). Mono- and diglycerides from glycerolysis of edible fats and oils were listed as GRAS as substances migrating to food from paper and paperboard products in a regulation published in the *Federal Register* of June 17, 1961 (26 FR 5421) and are currently listed as GRAS for this use in § 182.90 (21 CFR 182.90).

Mono- and diglycerides have a U.S. Department of Agriculture (USDA) prior sanction under the Meat Inspection Act

for use as emulsifiers in lard, shortening, and oleomargarine. Mono- and diglycerides of fat-forming fatty acids are listed as optional ingredients in the following food standards of identity: *Bread, rolls, and buns* (21 CFR 136.110); *Sweet chocolate* (21 CFR 163.123); and *Milk chocolate* (21 CFR 163.130). Mono- and diglycerides of fatty acids are listed as optional ingredients in the food standard in *Margarine* (21 CFR 166.110).

Glycerides, di- and monoester, are listed as food additives in 21 CFR 175.105 as components of adhesives. Mono- and diglycerides are listed as food additives in 21 CFR 176.210 as components of defoaming agents used in the manufacture of paper and paperboard.

Glyceryl monooleate is the monoester of glycerin and oleic acid. This monoglyceride is prepared by esterification of oleic acid with glycerin. FDA has stated in opinion letters that glyceryl monooleate is GRAS for use as an emulsifier in color mixtures for margarine (1958 letter) and as a vitamin oil emulsifier for use in fluid milk (1962 letter). Glyceryl monooleate is listed, under the name of glycerol monooleate, in § 181.27 (21 CFR 181.27) as a prior-sanctioned food ingredient when used as a plasticizer in food-packaging material. Glyceryl monooleate is listed in § 172.515 (21 CFR 172.515) as a synthetic flavoring substance and adjuvant. It is also listed in 21 CFR 175.300(b)(3)(xxiv) as a plasticizer of resinous and polymeric coatings and in 21 CFR 175.320(b)(3)(ii), under the name of glycerol monooleate, as a plasticizer in resinous and polymeric coatings for polyolefin films.

Glyceryl monostearate or monostearin is the monoester of glycerin and stearic acid. The commercial product is a mixture of variable proportions of glyceryl monostearate and glyceryl monopalmitate. Glyceryl monostearate is prepared by glycerolysis of certain edible fats and oils or by esterification of stearic acid with glycerin. Glycerol monostearate was listed as GRAS as a miscellaneous substance in a regulation published in the *Federal Register* of November 20, 1959 (24 FR 9368). Subsequently, glyceryl monostearate was reclassified as GRAS as a miscellaneous and general purpose food additive in a regulation published in the *Federal Register* of January 31, 1961 (26 FR 938), and reclassified and recodified as a multiple purpose GRAS food substance in the *Federal Register* of March 15, 1977 (42 FR 14640). Currently, glyceryl monostearate is listed as GRAS as a multiple purpose GRAS food substance in § 182.1324 (21 CFR 182.1324). Glyceryl monostearate is

listed as an optional ingredient in the standard of identity for macaroni products (21 CFR 139.110) and for noodle products (21 CFR 139.150). Glyceryl monostearate is also listed in 21 CFR 175.210 as an indirect food additive for use as a component of acrylate ester copolymer coatings, in 21 CFR 175.300(b)(3)(xxvii) for use as a surface lubricant in resinous and polymeric coatings, and in 21 CFR 176.200 for use as a component of defoaming agents used in coatings.

Diacetyl tartaric acid esters of mono- and diglycerides are composed of mixed esters of glycerin, tartaric acid, and fatty acids. The commercial product is prepared by the reaction of diacetyl tartaric acid anhydride with mono- and diglycerides made from edible fats, oils, and fatty acids. Diacetyl tartaric acid esters of mono- and diglycerides from glycerolysis of edible fats or oils were listed as GRAS as emulsifying agents in a regulation published in the *Federal Register* of November 20, 1959 (24 FR 9268). Subsequently, the listing was replaced by the listing of diacetyl tartaric acid esters of mono- and diglycerides of edible fats or oils, or edible fat-forming fatty acids, as GRAS as emulsifying agents in a regulation published in the *Federal Register* of December 2, 1964 (29 FR 16079). These substances are currently listed as GRAS for this use in § 182.4101 (21 CFR 182.4101). These esters also have a USDA prior sanction for emulsifying rendered animal fat or a combination of rendered animal fat with vegetable fat, in an amount sufficient for the purpose. Diacetyl tartaric acid esters of mono- and diglycerides of fat-forming fatty acids are listed as optional ingredients in the standards of identity for bread, rolls, and buns (21 CFR 136.110).

Monosodium phosphate derivatives of mono- and diglycerides are composed of a mixture of glyceride derivatives formed by reacting mono- and diglycerides with phosphorus pentoxide and then neutralizing the product with sodium carbonate. Monosodium phosphate derivatives of mono- and diglycerides from the glycerolysis of edible fats or oils were listed as GRAS as emulsifying agents in a regulation published in the *Federal Register* of November 20, 1959 (24 FR 9368). Subsequently, this listing was replaced by the listing of monosodium phosphate derivatives of mono- and diglycerides of edible fats or oils, or edible fat-forming fatty acids, as GRAS as emulsifying agents in a regulation published in the *Federal Register* of December 2, 1964 (29 FR 16079). These substances are currently listed as GRAS for this use in



**§ 182.4521 (21 CFR 182.4521).**

Monosodium phosphate derivatives of mono- and diglycerides of fat-forming fatty acids are listed as optional emulsifying agents in the standards of identity for sweet chocolate (21 CFR 163.123) and for milk chocolate (21 CFR 163.13).

Triacetin, also referred to as 1, 2, 3,-propanetriol or glyceryl triacetate, is the triester of glycerin and acetic acid. This ester is prepared by acetylation of glycerin or by the reaction of oxygen with the liquid-phase of mixture of allyl acetate and acetic acid, using bromide as a catalyst. Triacetin (glyceryl triacetate) was listed as GRAS as a miscellaneous substance in a regulation published in the **Federal Register** of November 20, 1959 (24 FR 9368). Subsequently, triacetin (glyceryl triacetate) was reclassified as a miscellaneous and general purpose food additive in a regulation published in the **Federal Register** of January 31, 1961 (26 FR 938). Triacetin was reclassified and recodified as a multiple purpose GRAS food substance in a regulation published in the **Federal Register** of March 15, 1977 (42 FR 14640), and is currently listed a GRAS for this use in § 182.1901 (21 CFR 182.1901). It is also listed in § 181.27 as a prior-sanctioned food ingredient when used as a plasticizer in food-packaging material. Furthermore, triacetin is regulated as a food additive under the name "glyceryl triacetate" in 21 CFR 175.300(b)(3)(xxiv) as a plasticizer in resinous and polymeric coatings and under the name "glycerol triacetate" in 21 CFR 175.320(b)(3)(ii) as a plasticizer in resinous and polymeric coatings for polyolefin films.

Tributyrin, also referred to as glyceryl tributyrate, is the triester of glycerin and butyric acid. It is prepared by esterification of glycerin with excess butyric acid. It was listed as GRAS under the designation "glycerol (glyceryl) tributyrate (tributyrin, butyrin)" for use as a synthetic flavoring substance and adjuvant in a regulation published in the **Federal Register** of May 9, 1961 (26 FR 3991), and currently is listed a GRAS in § 182.60 (21 CFR 182.60) for this use.

In 1971, the National Academy of Sciences/National Research Council (NAS/NRC) surveyed a representative cross-section of food manufacturers to determine the specific foods in which GRAS substances were used and the levels of usage. The survey revealed that mono- and diglycerides are used in most of the food categories listed in 21 CFR 170.3(n) as dough strengtheners, emulsifiers and emulsifier salts, flavoring agents and adjuvants,

lubricants and release agents, solvents and vehicles, stabilizers and thickeners, surface-active agents, surface-finishing agents, and texturizers. The survey also reported that glyceryl monostearate, which was listed individually, is used as a firming agent and as processing aid, as well as for most of the technical effects reported for mono- and diglycerides. The survey also reported that glyceryl monooleate is used as a flavoring agent and as a solvent and vehicle in baked goods, nonalcoholic beverages, and meat products.

The survey also reported the use of diacetyl tartaric acid esters of mono- and diglycerides as emulsifiers in baked goods, confections and frostings, and dairy product analogs and as flavoring substances in fats and oils. The survey reported the use of monosodium phosphate derivatives of mono- and diglycerides as emulsifiers and as surface-active agents in dairy product analogs. In addition, correspondence to FDA reported the use of these derivatives as lubricants and as release agents. The survey reported the use of triacetin as a flavoring agent, humectant, solvent or vehicle in alcoholic beverages; baked goods; chewing gums; confections and frostings; frozen dairy desserts and mixes; gelatins, puddings, and fillings; hard candy; nonalcoholic beverages; and soft candy. Finally, the survey reported the use of tributyrin as a flavoring agent in alcoholic beverages; baked goods; fats and oils; frozen dairy desserts and mixes; gelatins, puddings, and fillings; nonalcoholic beverages; and soft candy.

NAS/NRC combined this manufacturing information with information on consumer consumption of food to obtain an estimate of consumer exposure to these ingredients. FDA estimates from the NAS/NRC survey that the total amount of these ingredients used in 1970 was 132 million pounds. FDA further estimates that the total amounts of the various glycerides used in 1970 were as follows: mono- and diglycerides, 121 million pounds, 1.6 times that used in 1960; glyceryl monostearate, 10.3 million pounds, 5.7 times that used in 1960; diacetyl tartaric esters of mono- and diglycerides, 704,000 pounds, 1,007 times that used in 1960; triacetin (glyceryl triacetate), 61,600 pounds, 3.5 times that used in 1960; monosodium phosphate derivatives of mono- and diglycerides, 44,000 pounds; tributyrin, 1,000 pounds; and glyceryl monooleate, 44 pounds.

Glycerin and glycerides have been the subjects of a search of the scientific literature from 1920 to the present. The

criteria used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 1,817 abstracts on glycerin and glycerides was reviewed, and 103 particularly pertinent reports from the literature survey have been summarized in a scientific literature review.

Information from the scientific literature review has been summarized in a report to FDA by the Select Committee, which is composed of qualified scientists chosen by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB). The members of the Select Committee have evaluated all available safety information on glycerides.<sup>1</sup> In the Select Committee's opinion:

Although mono- and diglycerides of edible fat-forming fatty acids are found naturally, those that are used as food additives are usually prepared synthetically. Mono-, di- and triglycerides are metabolized by the same mechanisms. The biological effects of glycerides are either those of the entire molecule or of the metabolic products, fatty acids and glycerin. Triglyceride fats are a major source of calories in the diet of many people. Mono- and diglycerides are minor components of natural fats. They are intermediate metabolic products of ingested triglycerides. There is no evidence that the mono- and diglycerides of edible fat-forming fatty acids behave differently from triglycerides upon ingestion.

There is evidence that ingestion of excesses of saturated fats and cholesterol promotes arteriosclerosis and cardiovascular disease. Continuation of research in this area may refine relationships of the various fatty acids to the point where harmfulness may become an compelling consideration. However, because of a reasonable estimate of the consumption of all added mono- and diglycerides is of the order of 1 to 10 g per person per day, only a fraction of which contains saturated fatty acids, it can hardly be concluded that they make a sufficient contribution to any hazard associated with

<sup>1</sup>"Evaluation of the Health Aspects of Glycerin and Glycerides as Food Ingredients," Life Sciences Research Office, Federation of American Societies for Experimental Biology, 1975, pp. 19-22. In the past, the agency presented verbatim the Select Committee's discussion of the biological data it reviewed. However, because the Select Committee's report is available at the Dockets Management Branch and from the National Technical Information Service, and because it represents a significant savings to the agency in publication costs, FDA has decided to discontinue presenting the discussion in the preambles to proposals that affirm GRAS status in accordance with current good manufacturing practice.

normal ingestion of saturated fatty acids in fatty foods to justify limitation of the level of their current use.

The diacetyl tartaric acid esters of mixed mono- and diglycerides have been found to be without toxic effects in long-term feeding experiments with rats and dogs at levels that were orders of magnitude greater than those to which consumers are exposed.

Triacetin and two types of acetooleins have been found to be without toxic effects in long-term feeding tests in rats at levels that were several orders of magnitude greater than those to which consumers are exposed.

\* \* \*

The Select Committee concludes that:

1. There is no evidence in the available information on mono- and diglycerides of fat-forming fatty acids, diacetyl tartaric acid esters of mono- and diglycerides, and triacetin that demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when they are used at levels that are now current or that may reasonably be expected in the future.

2. There are inadequate data to evaluate the safety of monosodium phosphate derivatives of mono- and diglycerides.

FDA has undertaken its own evaluation of all available information on glycerides, including mutagenic evaluations of glyceryl monostearate and triacetin that were not available to the Select Committee.

1. The agency concurs with the Select Committee's conclusion for mono- and diglycerides of fat-forming fatty acids, diacetyl tartaric acid esters of mono- and diglycerides of fat-forming fatty acids, and triacetin. Therefore, the agency concludes that no change in their GRAS status is justified and proposes to affirm the GRAS status of uses of these substances in food.

The Select Committee reached a single conclusion regarding the safety of mono- and diglycerides of edible fat-forming fatty acids. However, it is clear from the background information, the biological studies section, and the opinion statement in the report<sup>3</sup> that this one conclusion by the Select Committee covers several ingredients that FDA had previously considered as separate GRAS ingredients. These include mono- and diglycerides of edible fats and oils or of edible fat-forming acids, glyceryl monostearate, and glyceryl monooleate. These ingredients are toxicologically equivalent and are all prepared by the same manufacturing methods. The differences in these ingredients reflect differences in the fatty acid content of the starting materials and minor variations in the

reaction conditions. However, these ingredients have very different uses in food. Glyceryl monostearate has a separate listing as a general purpose GRAS food ingredient and, as reported in the NAS/NRC survey, has a wide variety of uses in food including use as an emulsifier. Mono- and diglycerides are currently listed as GRAS as emulsifiers and, as reported in the NAS/NRC survey, are used in food primarily for that purpose. Glyceryl monooleate is regulated for flavoring use as a food additive and, as reported in the NAS/NRC survey, its use in food is limited to a flavor or flavor vehicle. Therefore, in response to the Select Committee's conclusion for mono- and diglycerides of edible fat-forming fatty acids, the agency is proposing to affirm as GRAS the use of three ingredients in food, mono- and diglycerides, glyceryl monostearate, and glyceryl monooleate.

2. In proposing these regulations, the agency has tentatively decided to change the way in which it refers to mono- and diglycerides and their derivatives. In the past, for mono- and diglycerides, FDA included in the name of the ingredient the identity of the starting material (mono- and diglycerides from edible fats or oils or edible fat-forming acids). The resulting name "mono- and diglycerides of edible fats or oils or edible fat-forming acids" was cumbersome, but FDA considered such a name necessary to identify adequately the ingredient that the agency considered to be GRAS. However, FDA now believes that information on the identity of the ingredient is more appropriately included in paragraph (a) of the GRAS affirmation regulation than in the name of the ingredient. Therefore, FDA has tentatively decided to refer to these mixtures as "mono- and diglycerides." The agency is also modifying in paragraph (a) of this GRAS affirmation regulation, the description of the source materials used to produce mono- and diglycerides. The restriction on source materials included in the previous listing was intended to exclude the use of improper sources, such as tall oil, castor oil, or fat from animals classified by the U.S. Department of Agriculture as 4-D, i.e., dead, dying, diseased, or down. However, the agency had no intention to exclude the use of unrefined animal and vegetable fats as production starting materials. Therefore, the agency is describing the source materials for production of mono- and diglycerides and their derivatives as fats and oils or fat-forming acids from edible sources.

3. FDA is proposing to remove glyceryl monooleate from the agency's food additive regulations as a food

flavor (21 CFR 172.515) and to affirm it as GRAS in Part 184 (21 CFR Part 184). This proposal is consistent with previous FDA actions during the GRAS review of food flavoring ingredients. The basis for this proposal is the Select Committee's conclusion that mono- and diglycerides of edible fat-forming fatty acids are safe for use in food at current or reasonably expected future levels. This finding evidences the general recognition of the safety of this ingredient among food scientists. Therefore, because the Select Committee included glyceryl monooleate in this group of substances, its conclusion for mono- and diglycerides of edible fat-forming fatty acids applies to glyceryl monooleate. Furthermore, in prior opinion letters the agency has stated that certain food uses of glyceryl monooleate are GRAS. Therefore, the agency believes that glyceryl monooleate is properly included among the ingredients listed in Part 184.

The agency is proposing not to affirm the use of glyceryl monooleate as an emulsifier in color mixtures for margarine or as a vitamin oil emulsifier for use in fluid milk. Even though the agency has stated in opinion letters that these uses of glyceryl monooleate were GRAS, they were not reported during the 1971 NAS/NRC survey. The agency will consider including these uses in the final regulation if information confirming the current use of glyceryl monooleate for these purposes is submitted as comments on this proposal.

4. The agency acknowledges the absence of biological data specifically relating to monosodium phosphate derivatives of mono- and diglycerides. However, the agency has undertaken its own review of these substances, including an evaluation of any potential impurities resulting from the manufacturing process and of the safety of the hydrolysis products that are formed following ingestion (mono- and diglycerides and phosphate derivatives). The Select Committee addressed the safety of phosphoric acid, sodium phosphate, and other phosphates in a separate report and concluded that they were safe for use in food at present and future anticipated levels of use.<sup>4</sup> The agency concurs with the conclusions of the Select Committee regarding the safety of phosphates and mono- and diglycerides. The agency further concludes that there are no potential safety hazards resulting from the

<sup>3</sup> *Ibid.*, p. 23.

<sup>4</sup> *Ibid.*, pp. 12, 19, 23.

<sup>4</sup> "Evaluation of the Health Aspects of Phosphates as Food Ingredients," Life Sciences Research Office, Federation of American Societies for Experimental Biology, 1975, p. 26.

manufacturing process, and that the data supporting the safety of mono- and diglycerides and of the phosphates are sufficient to establish the safety of the use of monosodium phosphate derivatives of mono- and diglycerides in food. Thus, FDA believes that no change in the GRAS status of this ingredient is justified. Consequently, the agency is proposing to affirm the use of this ingredient in food as GRAS under conditions of current good manufacturing practice and to take no action on the listings of this substance in the food standards.

5. The safety of tributyrin was not considered in the Select Committee's report on glycerin and glycerides. However, because this substance is listed as GRAS in § 182.60 (21 CFR 182.60), FDA initiated its own review of the available safety data on tributyrin. In the one study in the literature on carcinogenicity (Ref. 1), tributyrin was found not to be a carcinogen in the A/He mouse pulmonary systems. Apparently, no other carcinogenicity studies have been done. In short-term and acute toxicity tests (Ref. 2), ingestion of high levels of tributyrin (15 to 25 percent) for 3 to 35 weeks was associated with gastric lesions in rats. However, the authors felt that these lesions could have been partially the result of the low nutritive value of the test diet. Tributyrin has a relatively high LD<sub>50</sub> (320 milligrams per kilogram body weight i.v.) in the mouse (Ref. 3). In metabolism and absorption studies, feeding tributyrin to rats was observed to have no effect upon lymphatic transport of endogenous cholesterol from the intestine (Ref. 4). Tributyrin was also observed not to hinder the conversion of linoleic acid to arachidonic acid and was observed to promote growth in rats when fed with minimal levels of linoleic acid (Ref. 5). In one study with premature infants (Ref. 6), tributyrin was readily absorbed and caused no untoward effects. Total United States poundage of tributyrin used by the food industry in 1970 was 1,000 pounds. Given this small exposure, and the toxicology data in the literature, the agency has tentatively concluded that there is little human risk associated with the use of this ingredient as a synthetic flavoring substance and adjuvant in food at levels that are now current or that might reasonably be expected in the future. Therefore, the agency is proposing to affirm as GRAS the use of tributyrin as a flavoring agent in food under conditions of current good manufacturing practice.

Because no food-grade specifications exist for glyceryl monostearate, glyceryl

monooleate, and monosodium phosphate derivatives of mono- and diglycerides at the present time, the agency will work with the Committee on Food Chemicals Codex of the National Academy of Sciences to develop acceptable specifications for these ingredients. If acceptable specifications are developed, the agency will incorporate them into the regulations at a later date. Until specifications are developed, FDA has determined that the public health will be adequately protected if glyceryl monostearate, glyceryl monooleate, and monosodium phosphate derivatives of mono- and diglycerides comply with the description in the proposed regulations and are of food-grade purity (21 CFR 170.30(h)(1) and 182.1(b)(3)).

Additionally, FDA is not including in the proposed GRAS affirmation regulations for mono- and diglycerides, diacetyl tartaric acid esters of mono- and diglycerides, monosodium phosphate derivatives of mono- and diglycerides, glyceryl monostearate, glyceryl monooleate, triacetin, and tributyrin the levels of use reported in the 1971 NSA/NRC food survey for these ingredients. Except for tributyrin, both FASEB and the agency have concluded that a large margin of safety exists for the use of these substances, and that a reasonable foreseeable increase in the level of use of these substances will not adversely affect human health. FDA reached the same conclusions for tributyrin after its own evaluation of this substance.

The agency is also not including in the proposed GRAS affirmation regulations for mono- and diglycerides and glyceryl monostearate the food categories of use reported for the ingredients in the 1971 NAS/NRC survey. The survey reported the use of these ingredients in a large number of food categories, including food categories containing high consumption food products. The agency has concluded that expansion of use of these ingredients into additional food categories would not result in a significant increase in total consumption of these ingredients, and that any such increase in consumption would be covered by available safety information.

Finally, the agency is not including in the proposed GRAS affirmation regulation for glyceryl monostearate the technical effects reported for the ingredient in the 1971 NAS/NRC survey. The ingredient is commonly used for a wide variety of technical effects in food, including such nonspecific technical effects as a processing aid and a stabilizer and a thickener. The agency concludes that an expansion in the use

of glyceryl monostearate in food because of use for new technical effects is unlikely because the technical effects for which it is not currently used are highly specific, and, given glyceryl monostearate's physical and chemical properties, unsuitable for this ingredient. Furthermore, the current wide margin of safety for the use of glyceryl monostearate in food assures that any increase in consumption resulting from the use of this ingredient for additional technical effects in food would be safe.

Therefore, the agency is proposing to affirm the GRAS status of these ingredients when used under current good manufacturing practice conditions of use in accordance with § 184.1(b)(1) (21 CFR 184.1(b)(1)). To make clear, however, that affirmation of the GRAS status of these substances is based on the evaluation of currently known uses or limited uses, the proposed regulations set forth technical effects for mono- and diglycerides and technical effects and food categories for diacetyl tartaric acid esters of mono- and diglycerides, monosodium phosphate derivatives of mono- and diglycerides, glyceryl monooleate, triacetin, and tributyrin that FDA evaluated.

In the *Federal Register* of September 7, 1982 (47 FR 39199), FDA proposed to adopt a general policy restricting the circumstances in which it will specifically describe conditions of use in regulations affirming substances as GRAS under 21 CFR 184.1(b)(1) or 186.1(b)(1). The agency proposed to amend its regulations to indicate clearly that it will specify one or more of the current good manufacturing practice conditions of use in regulations for substances affirmed as GRAS with no limitations other than current good manufacturing practice only when the agency determines that it is appropriate to do so.

In the past, when a substance has been listed in Part 182 (21 CFR Part 182) as GRAS for both direct and indirect uses, FDA has proposed separate GRAS affirmation regulations in Parts 184 and 186 (21 CFR Parts 184 and 186) to govern its direct and indirect GRAS uses, respectively. Under § 184.1(a) (21 CFR 184.1(a)), however, ingredients affirmed as GRAS for direct food uses in Part 184 are considered to be GRAS for indirect uses without a separate listing in Part 186. Based on § 184.1(a), FDA has reconsidered its traditional practice and has concluded that the duplicative listing in Part 186 is unnecessary, as a general rule, and may cause confusion. Thus, unless safety considerations make it necessary to impose specific purity specifications or other restrictions on

the indirect use of a GRAS substance, FDA will no longer list in Part 186 substances that are affirmed as GRAS for direct use in Part 184. In keeping with this change in policy, FDA is not proposing a separate listing in Part 186 for the indirect uses of mono- and diglycerides. The indirect uses of mono- and diglycerides would be authorized under §§ 184.1(a) and 184.1505.

In the case of mono- and diglycerides, FDA believes that the general requirements that indirect GRAS ingredients be of a purity suitable for their intended use in accordance with § 170.30(h)(1) (21 CFR 170.30(h)(1)) and used in accordance with current good manufacturing practice are sufficient to ensure the safe use of these ingredients. Therefore, the agency has not proposed any specific purity specifications for their indirect use.

Although the policies discussed in the two preceding paragraphs are not inconsistent with FDA's current regulations, FDA published a proposal in the *Federal Register* of June 25, 1982 (47 FR 27817) to amend its procedural regulations in Parts 184 and 186 to reflect clearly these policies.

Copies of the scientific literature review and the reports of the Select Committee on glycerin and glycerides and the mutagenic evaluations of monosodium phosphate derivatives of mono- and diglycerides, glyceryl monostearate, and triacetin are available for review at the Dockets Management Branch (address above), and may be purchased from the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161, as follows:

Title	Order No.	Price code	Price <sup>1</sup>
Glycerin and glycerides (scientific literature review).....	PB-221-227.....	A10.....	\$17.00
Glycerin and glycerides (Select Committee report).....	PB-254-536/AS.....	A03.....	6.50
Monosodium phosphate derivatives of mono- and diglycerides (mutagenic evaluation).....	PB-245-505/AS.....	A03.....	6.50
Glyceryl monostearate (mutagenic evaluation).....	PB-257-869/AS.....	A03.....	6.50
Triacetin (mutagenic evaluation).....	PB-257-871/AS.....	A03.....	6.50

<sup>1</sup> Price subject to change.

These proposed actions do not affect the current use of these glycerides in pet food or animal feed.

The format of these proposed regulations is different from that in previous GRAS affirmation regulations. FDA has modified paragraph (c) of §§ 184.1101, 184.1323, 184.1505, 184.1521, 184.1901, and 184.1903 to make clear the agency's determination that GRAS affirmation is based upon current good manufacturing practice conditions of use, including both technical effects and food categories listed. This change has no substantive effect but is made merely for clarity.

The agency has determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities including small businesses and has determined that the effect of this proposal is to maintain current known uses of the substances covered by this proposal by both large and small businesses. Therefore, FDA certifies in accordance

with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this proposal, and the agency has determined that the final rule, if promulgated, will not be a major rule as defined by the Order.

#### References

The following information has been placed on display in the Dockets Management Branch (address above) and may be reviewed by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Stoner, G. D., M. B. Shimkin, A. J. Kniazeff, J. G. Weisburger, E. K. Weisburger, and B. G. Gori, "Test for Carcinogenicity of Food Additives and Chemotherapeutic Agents by the Pulmonary Tumor Response in Strain A Mice," *Cancer Research*, 33:3069-3085, 1973.

2. Salmon, W. D. and D. H. Copeland, "The Occurrence of Gastric Lesions in the Rat as a Result of Feeding Tributyrin," *Journal of the National Cancer Institute*, 10:361-373, 1949-1959.

3. Wretland, A., "The Toxicity of Low-molecular Triglycerides," *Acta Physiologica Scandinavica*, 40:338-343, 1957.

4. Sylven, C. and B. Borgstrom, "Intestinal Absorption and Lymphatic Transport of Cholesterol in the Rat: Influence of the Fatty Acid Chain Length of the Carrier

Triglyceride," *Journal of Lipid Research*, 10:351-355, 1969.

5. Mohrhauer, H. and R. F. Holman, "Metabolism of Linoleic Acid in Relation to Dietary Saturated Fatty Acids in the Rat," *Journal of Nutrition*, 91:528-534, 1967.

6. Snyderman, S. E., S. Morales, and L. E. Holt, Jr., "Fat Absorption in Premature Infants," *Archives of Disease in Childhood*, 30:83-84, 1955.

#### List of Subjects

##### 21 CFR Part 172

Food additives, Food preservatives, Spices and flavorings.

##### 21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

##### 21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Parts 172, 182, and 184 be amended as follows:

#### PART 172—FOOD ADDITIVES PERMITTED FOR DIRECT ADDITION TO FOOD FOR HUMAN CONSUMPTION

##### § 172.515 [Amended]

1. Part 172 is amended in § 172.515 *Synthetic flavoring substances and adjuvants* in paragraph (b) by removing "glyceryl monooleate" from the list of substances.

#### PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

2. Part 182 is amended:

##### § 182.60 [Amended]

a. In § 182.60 *Synthetic flavoring substances and adjuvants* by removing the entry for "Glycerol (glyceryl) tributyrate (tributyrin, butyrin)."

##### § 182.90 [Amended]

b. In § 182.90 *Substances migrating to food from paper and paperboard products* by removing the entry for "Mono- and diglycerides from glycerolysis of edible fats and oils."

##### §§ 182.1324, 182.1901, 182.4101, 182.4505, 182.4521 [Removed]

c. By removing § 182.1324 *Glyceryl monostearate*, § 182.1901 *Triacetin*, § 182.4101 *Diacyl tartaric acid esters of mono- and diglycerides of edible fats and oils, or edible fat-forming acids*, § 182.4505 *Mono- and diglycerides of*

*edible fats or oils, or edible fat-forming acids, and § 182.4521 Monosodium phosphate derivatives of mono- and diglycerides of edible fats or oils, or edible fat-forming fatty acids.*

**PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE**

3. Part 184 is amended:

a. By adding new § 184.1101, to read as follows:

**§ 184.1101 Diacetyl tartaric acid esters of mono- and diglycerides.**

(a) Diacetyl tartaric acid esters of mono- and diglycerides are composed of mixed esters of glycerin in which one or more of the hydroxyl groups of glycerin have been esterified by diacetyl tartaric acid and by fatty acids. The ingredient is prepared by the reaction of diacetyl tartaric anhydride with mono- and diglycerides that are derived from edible sources.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 98, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used in food as an emulsifier and emulsifier salt as defined in § 170.3(o)(8) of this chapter and a flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice: baked goods as defined in § 170.3(n)(1) of this chapter; confections and frostings as defined in § 170.3(n)(9) of this chapter; dairy product analogs as defined in § 170.3(n)(10) of this chapter; and fats and oils as defined in § 170.3(n)(12) of this chapter.

b. By adding new § 184.1323, to read as follows:

**§ 184.1323 Glyceryl monooleate.**

(a) Glyceryl monooleate is the monoester of glycerin and oleic acid. It is prepared by esterification of oleic acid that is derived either from edible sources or from tall oil fatty acids

meeting the requirements of § 172.862 of this chapter.

(b) FDA is developing food-grade specifications for glyceryl monooleate in cooperation with the National Academy of Sciences. In the interim, this ingredient must be of a purity suitable for its intended use.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used as a flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter and a solvent and vehicle as defined in § 170.3(o)(27) of this chapter.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice: baked goods and baking mixes as defined in § 170.3(n)(1) of this chapter; nonalcoholic beverages and beverage bases as defined in § 170.3(n)(3) of this chapter; and meat products as defined in § 170.3(n)(29) of this chapter.

c. By adding new § 184.1324, to read as follows:

**§ 184.1324 Glyceryl monostearate.**

(a) Glyceryl monostearate (CAS Reg. No. 31566-31-1), also known as monostearin, is the monoester of glycerin and stearic acid. The commercial product is a mixture of variable proportions of glyceryl monostearate and glyceryl monopalmitate. Glyceryl monostearate is prepared by glycerolysis of certain fats or oils that are derived from edible sources or by esterification, with glycerin, of stearic acid that is derived from edible sources.

(b) FDA is developing food-grade specifications for glyceryl monostearate in cooperation with the National Academy of Sciences. In the interim, this ingredient must be of a purity suitable for its intended use.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice.

d. By adding § 184.1505, to read as follows:

**§ 184.1505 Mono- and diglycerides.**

(a) Mono- and diglycerides consist of a mixture of glyceryl mono- and diesters, and minor amounts of triesters; that are prepared from fats or oils or fat-forming acids that are derived from edible sources. The most prevalent fatty acids include lauric, linoleic, myristic,

oleic, palmitic, and stearic. Mono- and diglycerides are manufactured by the reaction of glycerin with fatty acids or the reaction of glycerin with triglycerides in the presence of an alkaline catalyst. The products are further purified to obtain a mixture of glycerides, free fatty acids, and free glycerin that contains at least 90-percent-by-weight glycerides.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 201, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used in food as a dough strengthener as defined in § 170.3(o)(6) of this chapter; an emulsifier and emulsifier salt as defined in § 170.3(o)(8) of this chapter; a flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter; a lubricant and release agent as defined in § 170.3(o)(18) of this chapter; a solvent and vehicle as defined in § 170.3(o)(27) of this chapter; a stabilizer and thickener as defined in § 170.3(o)(28) of this chapter; a surface-active agent as defined in § 170.3(o)(29) of this chapter; a surface-finishing agent as defined in § 170.3(o)(30) of this chapter; and a texturizer as defined in § 170.3(o)(32) of this chapter.

(2) The ingredient is used in food at levels not to exceed current good manufacturing practice.

e. By adding new § 184.1521, to read as follows:

**§ 184.1521 Monosodium phosphate derivatives of mono- and diglycerides.**

(a) Monosodium phosphate derivatives of mono- and diglycerides are composed of glyceride derivatives formed by reacting mono- and diglycerides that are derived from edible sources with phosphorus pentoxide followed by neutralization with sodium carbonate.

(b) FDA is developing food-grade specifications for monosodium phosphate mono- and diglycerides in cooperation with the National Academy of Sciences. In the interim, this

ingredient must be of a purity suitable for its intended use.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used in food as an emulsifier and emulsifier salt as defined in § 170.3(o)(8) of this chapter; a lubricant and release agent as defined in § 170.3(o)(18) of this chapter; and as a surface-active agent as defined in § 170.3(o)(29) of this chapter.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice: dairy product analogs as defined in § 170.3(n)(10) of this chapter and soft candy as defined in § 170.3(n)(38) of this chapter.

f. By adding new § 184.1901, to read as follows:

**§ 184.1901 Triacetin.**

(a) Triacetin ( $C_8H_{14}O_6$ , CAS Reg. No. 102-76-1), also known as 1,2,3-propanetriol triacetate or glyceryl triacetate, is the triester of glycerin and acetic acid. Triacetin can be prepared by heating glycerin with acetic anhydride alone or in the presence of finely divided potassium hydrogen sulfate. It can also be prepared by the reaction of oxygen with a liquid-phase mixture of allyl acetate and acetic acid using a bromide as a catalyst.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 337, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, D.C. 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used in food as a flavoring agent and adjuvant as defined in § 170.3(o)(12) of this chapter; a humectant as defined in § 170.3(o)(16) of this chapter; and a solvent and vehicle as defined in § 170.3(o)(27) of this chapter.

(2) The ingredient is used in the following foods at levels not to exceed

current good manufacturing practice: baked goods as defined in § 170.3(n)(1) of this chapter; alcoholic beverages as defined in § 170.3(n)(2) of this chapter; nonalcoholic beverages and beverages bases as defined in § 170.3(n)(3) of this chapter; chewing gum as defined in § 170.3(n)(6) of this chapter; confections and frostings as defined in § 170.3(n)(9) of this chapter; frozen dairy desserts and mixes as defined in § 170.3(n)(20) of this chapter; hard candy as defined in § 170.3(n)(25) of this chapter; gelatins, puddings, and fillings as defined in § 170.3(n)(22) of this chapter; and soft candy as defined in § 170.3(n)(38) of this chapter.

g. By adding new § 184.1903, to read as follows:

**§ 184.1903 Tributyrin.**

(a) Tributyrin ( $C_{15}H_{26}O_6$ , CAS Reg. No. 60-01-5), also known as butyrin or glyceryl tributyrate, is the triester of glycerin and butyric acid. It is prepared by esterification of glycerin with excess butyric acid.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 416, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice. The affirmation of this ingredient as generally recognized as safe (GRAS) as a direct human food ingredient is based upon the following current good manufacturing practice conditions of use:

(1) The ingredient is used in food as a flavoring agent as defined in § 170.3(o)(12) of this chapter.

(2) The ingredient is used in the following foods at levels not to exceed current good manufacturing practice: baked goods as defined in § 170.3(n)(1) of this chapter; alcoholic beverages as defined in § 170.3(n)(2) of this chapter; nonalcoholic beverages as defined in § 170.3(n)(3) of this chapter; fats and oils as defined in § 170.3(n)(12) of this chapter; frozen dairy desserts and mixes as defined in § 170.3(n)(20) of this chapter; gelatins, puddings, and fillings as defined in § 170.3(n)(22) of this chapter; and soft candy as defined in § 170.3(n)(38) of this chapter.

The agency is unaware of any prior sanction for the use of these ingredients in foods under conditions different from those identified in this document or Part 181 (21 CFR Part 181). Any person who

intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The action proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342), and the failure of any person to come forward with proof of an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on it later. Should any person submit proof of the existence of a prior sanction, the agency hereby proposes to recognize such use by issuing an appropriate final rule under Part 181 or affirming it as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

Interested persons may, on or before April 11, 1983, submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of all comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 18, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-3212 Filed 2-7-83; 8:45 am]

BILLING CODE 4160-01-M

**21 CFR Parts 182 and 184**

[Docket No. 78N-0348]

**Glycerin; Affirmation of GRAS Status as a Direct Human Food Ingredient**

**AGENCY:** Food and Drug Administration.

**ACTION:** Proposed rule.

**SUMMARY:** The Food and Drug Administration (FDA) is proposing to affirm that glycerin is generally recognized as safe (GRAS) as a direct human food ingredient. The safety of this ingredient has been evaluated under a comprehensive safety review conducted by the agency. A proposal to affirm certain glycerides as GRAS appears elsewhere in this issue of the Federal Register.

**DATE:** Comments by April 11, 1983.

**ADDRESS:** Comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.



**FOR FURTHER INFORMATION CONTACT:** Susan Thompson, Bureau of Foods (HFF-335), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202-426-9463.

**SUPPLEMENTARY INFORMATION:** FDA is conducting a comprehensive review of human food ingredients classified as GRAS or subject to a prior sanction. The agency has issued several notices and proposals (see the *Federal Register* of July 26, 1973 (38 FR 20040)) initiating this review, under which the safety of glycerin has been evaluated. In accordance with the provision of § 170.35 (21 CFR 170.35), the agency proposes to affirm the GRAS status of this ingredient.

Glycerin is the polyhydric alcohol 1,2,3-propanetriol, also known as glycerol, glycerine, glycol alcohol, or 1,2,3-trihydroxypropane. It is a component of both animal and vegetable fats. In the animal, glycerin can be formed from ingested carbohydrate and from glycogen by glycolysis, and from fats and other lipids by hydrolysis. Glycerin may be prepared as a byproduct in the manufacture of soaps, fatty acids, and fatty alcohols from hydrolysis of fats and oils. It may also be produced by microbial fermentation of sugars. Synthetic glycerin is manufactured by chlorination or oxidation of propylene gas, through an allyl chloride, acrolein, or propylene oxide intermediate or, on a smaller scale, by hydrogenolysis of carbohydrates.

Glycerin was listed as GRAS as a miscellaneous substance in a regulation published in the *Federal Register* of November 20, 1959 (24 FR 9368). Subsequently, it was reclassified as a miscellaneous and general purpose food additive in a regulation published in the *Federal Register* of January 31, 1961 (26 FR 938), and reclassified and recodified as a multiple purpose GRAS food substance in a regulation published in the *Federal Register* of March 15, 1977 (42 FR 14640). Glycerin was also listed as GRAS as a substance migrating to food from paper and paperboard products used in food packaging in a regulation published in the *Federal Register* of June 17, 1961 (26 FR 5421). Glycerin is currently listed as GRAS in § 182.1320 (21 CFR 182.1320) as a multiple purpose GRAS food substance and in § 182.90 (21 CFR 182.90) as a substance migrating to food from paper and paperboard products. The Meat Inspection Division of the U.S. Department of Agriculture (USDA) permits the use of glycerin to inhibit drying for seasoning and curing mixes and to manufacture mono- and diglycerides in an amount sufficient for

the purpose. The standard of identity for vanilla extract (21 CFR 169.175) lists glycerin as an optional ingredient.

Glycerol is listed in the following food additive regulations: In 21 CFR 175.300 (resinous and polymeric coatings) as a component in the preparation of rosin esters, as a polyhydric alcohol for forming polyester resins, and as a plasticizer; in 21 CFR 175.320 (resinous and polymeric coatings for polyolefin films) as a polyhydric alcohol for making polyester resins; in 21 CFR 176.210 (defoaming agents used in the manufacture of paper and paperboard) as a substance to react with fats, oils, and fatty acids to form mono- and diglycerides; in 21 CFR 177.2420 (polyester resins, cross-linked) as a polyol used in the formation of cross-linked polyester resins; and in 21 CFR 177.2800 (textiles and textile fibers) as a substance to react with fats, oils, and fatty acids in the preparation of textiles and textile fibers. Synthetic glycerin, produced by hydrogenolysis of carbohydrates, is listed in 21 CFR 172.866 as a direct food additive and in 21 CFR 178.3500 as a component of articles intended for use in packaging materials for food.

In 1971, the National Academy of Sciences/National Research Council (NAS/NRC) surveyed a representative cross-section of food manufacturers to determine the specific foods in which glycerin is used, the levels of usage, and the total poundage. The survey revealed that glycerin is used in half of the food categories listed in 21 CFR 170.3. NAS/NRC combined this manufacturing information with information on consumer consumption of foods to obtain an estimate of consumer exposure to this ingredient. FDA estimates from the NAS/NRC survey that the total amount of this ingredient used in food in 1970 was approximately 10.8 million pounds (4.9 million kilograms (kg)) or about 3 times that used in 1960.

Glycerin and glycerides have been the subject of a search of the scientific literature from 1920 to the present. The criteria used in the search were chosen to discover any articles that considered (1) chemical toxicity, (2) occupational hazards, (3) metabolism, (4) reaction products, (5) degradation products, (6) carcinogenicity, teratogenicity, or mutagenicity, (7) dose response, (8) reproductive effects, (9) histology, (10) embryology, (11) behavioral effects, (12) detection, and (13) processing. A total of 1,817 abstracts on glycerin and glycerides was reviewed, and 103 particularly pertinent reports from the

literature survey have been summarized in a scientific literature review.

Information from the scientific literature review and other sources has been summarized in a report to FDA by the Select Committee on GRAS Substances (the Select Committee), which is composed of qualified scientists chosen by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB). The members of the Select Committee have evaluated all the available safety information on glycerin.<sup>1</sup> In the Select Committee's opinion:

Glycerin is a component of dietary fat. It has been subjected to extensive short- and long-term toxicological study. The available information on the acute and chronic effects of glycerin demonstrates that no pathological lesions or other adverse effects occur in experimental animals and man at oral levels of glycerin that are orders of magnitude greater than those now consumed. The available information indicates that the incidence of allergic or hypersensitivity reactions to glycerin is low.<sup>2</sup>

The Select Committee concludes that there is no evidence in the available information on glycerin that demonstrates, or suggests reasonable grounds to suspect, a hazard to the public when it is used at levels that are now current or that might reasonably be expected in the future.<sup>3</sup>

FDA has undertaken its own evaluation of all available information on glycerin (including a mutagenic evaluation that was not available when the Select Committee formed its conclusion) and concurs with the conclusion of the Select Committee. The agency concludes that no change in the current GRAS status of this ingredient is justified. Therefore, the agency proposes to affirm the GRAS status of glycerin.

Additionally, FDA is proposing not to include in this GRAS affirmation regulation for glycerin the food categories, technical effects, and levels of use reported in the NAS/NRC 1971 survey for this ingredient. Both FASEB and the agency have concluded that a

<sup>1</sup> "Evaluation of the Health Aspects of Glycerin and Glycerides as Food Ingredients," Life Sciences Research Office, Federation of American Societies for Experimental Biology, 1975, pp. 5-11. In the past, the agency presented verbatim the Select Committee's discussion of the biological data it reviewed. However, because the Select Committee's report is available at the Dockets Management Branch and from the National Technical Information Service, and because it represents a significant savings to the agency in publication costs, FDA has decided to discontinue presenting that discussion in the preamble to proposals that affirm GRAS status in accordance with current good manufacturing practice.

<sup>2</sup> *Ibid.*, p. 11.

<sup>3</sup> *Ibid.*



large margin of safety exists for the use of this substance, and that a reasonably foreseeable increase in the level of consumption of glycerin will not adversely affect human health. This conclusion is based on the fact that glycerin is currently widely used in food and is also a component of dietary fat, and that the Select Committee found that glycerin has a low order of toxicity in experimental animals and man. Therefore, the agency is proposing to affirm the GRAS status of glycerin when it is used under current good manufacturing practice conditions of use in accordance with § 184.1(b)(1) (21 CFR 184.1(B)(1)).

In the *Federal Register* of September 7, 1982 (47 FR 39199), FDA proposed to adopt a general policy restricting the circumstances in which it will specifically describe conditions of use in regulations affirming substances as GRAS under 21 CFR 184.1(b)(1) or 186.1(b)(1). The agency proposed to amend its regulations to indicate clearly that it will specify one or more of the current good manufacturing practice conditions of use in regulations for substances affirmed as GRAS with no limitations other than current good manufacturing practice only when the agency determines that it is appropriate to do so.

In the past, when a substance has been listed in Part 182 (21 CFR Part 182) as GRAS for both direct and indirect uses, FDA has proposed separate GRAS affirmation regulations in Parts 184 and 186 (21 CFR Parts 184 and 186) to govern its direct and indirect GRAS uses, respectively. Under § 184.1(a) (21 CFR 184.1(a)), however, ingredients affirmed as GRAS for direct food use in Part 184 are considered to be GRAS for indirect uses without a separate listing in Part 186. Based on § 184.1(a), FDA has reconsidered its traditional practice and has concluded that the duplicative listing in Part 186 is unnecessary, as a general rule, and may cause confusion. Thus, unless safety considerations make it necessary to impose specific purity specifications or other restrictions on the indirect use of a GRAS substance, FDA will no longer list in Part 186 substances that are affirmed as GRAS for direct use in Part 184. In keeping with this change in policy, FDA is not proposing a separate listing in Part 186 for the indirect uses of glycerin. The indirect uses of glycerin would be authorized under §§ 184.1(a) and 184.1320.

In the case of glycerin, FDA believes that the general requirements that indirect GRAS ingredients be of a purity suitable for their intended use in

accordance with § 170.30(h)(1) (21 CFR 170.30(h)(1)) and used in accordance with current good manufacturing practice are sufficient to ensure the safe use of this ingredient. Therefore, the agency has not proposed any specific purity specifications for its indirect use.

Although the policies discussed in the two preceding paragraphs are not inconsistent with FDA's current regulations, FDA published a proposal in the *Federal Register* of June 25, 1982 (47 FR 27817) to amend its procedural regulations in Parts 184 and 186 to reflect clearly these policies.

Copies of the scientific literature review, reports of mutagenic and teratogenic tests, and the report of the Select Committee on glycerin are available for review at the Dockets Management Branch (address above), and may be purchased from the National Technical Information Service, 5285 Port Royal Rd., Springfield, VA 22161, as follows:

Title	Order No.	Price code	Price <sup>1</sup>
Glycerin and glycerides (scientific literature review).	PB-221-227 .....	A10 .....	\$18.00
Glycerin and glycerides (Select Committee report).	PB-254-536/AS .....	A03 .....	7.50
Glycerin (mutagenic evaluation).	PB-245-479/AS .....	A03 .....	7.50
Glycerin (teratogenic evaluation).	PB-234-876/AS .....	A03 .....	6.50

<sup>1</sup> Price subject to change.

This proposed action does not affect the current use of glycerin in pet food or animal feed.

The format of this proposed regulation is different from that in previous GRAS affirmation regulations. FDA has modified paragraph (c) of § 184.1320 to make clear the agency's determination that GRAS affirmation is based upon current good manufacturing practice conditions of use. This change has no substantive effect but is made merely for clarity.

The agency has determined under 21 CFR 25.24(d)(6) (proposed December 11, 1979; 44 FR 71742) that this proposed action is of a type that does not individually or cumulatively have a significant impact on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

FDA, in accordance with the Regulatory Flexibility Act, has considered the effect that this proposal would have on small entities including small businesses and has determined that the effect of this proposal is to

maintain current known uses of the substance covered by this proposal by both large and small businesses. Therefore, FDA certifies in accordance with section 605(b) of the Regulatory Flexibility Act that no significant economic impact on a substantial number of small entities will derive from this action.

In accordance with Executive Order 12291, FDA has carefully analyzed the economic effects of this proposal, and the agency has determined that the final rule, if promulgated, will not be a major rule as defined by that Order.

#### List of Subjects

##### 21 CFR Part 182

Generally recognized as safe (GRAS) food ingredients, Spices and flavorings.

##### 21 CFR Part 184

Direct food ingredients, Food ingredients, Generally recognized as safe (GRAS) food ingredients.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(s), 409, 701(a), 52 Stat. 1055, 72 Stat. 1784-1788 as amended (21 U.S.C. 321(s), 348, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), it is proposed that Parts 182 and 184 be amended as follows:

#### PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

##### 1. Part 182 is amended:

##### § 182.90 [Amended]

a. In § 182.90 *Substances migrating to food from paper and paperboard products* by removing the entry for "Glycerin."

##### § 182.1320 [Removed]

b. By removing § 182.1320 *Glycerin*.

#### PART 184—DIRECT FOOD SUBSTANCES AFFIRMED AS GENERALLY RECOGNIZED AS SAFE

##### 2. Part 184 is amended by adding new § 184.1320, to read as follows:

##### § 184.1320 *Glycerin*.

(a) Glycerin (C<sub>3</sub>H<sub>8</sub>O<sub>3</sub>, CAS Reg. No. 56-81-5) is the polyhydric alcohol 1,2,3-propanetriol, also known as glycerol, glycerine, glyceryl alcohol, 1,2,3-propanetriol, and 1,2,3-trihydroxypropane. Glycerin is prepared by microbial fermentation of sugars; or is prepared by hydrolysis of oils and

fats that are derived from edible sources during the production of soaps, fatty acids, and fatty alcohols; or is synthesized from propylene through one of three intermediates: allyl chloride, acrolein, and propylene oxide.

(b) The ingredient meets the specifications of the Food Chemicals Codex, 3d Ed. (1981), p. 136, which is incorporated by reference. Copies are available from the National Academy Press, 2101 Constitution Ave. NW., Washington, DC 20418, or available for inspection at the Office of the Federal Register, 1100 L St. NW., Washington, DC 20408.

(c) In accordance with § 184.1(b)(1), the ingredient is used in food with no limitation other than current good manufacturing practice.

The agency is unaware of any prior sanction for the use of this ingredient in foods under conditions different from those identified in this document. Any person who intends to assert or rely on such a sanction shall submit proof of its existence in response to this proposal. The action proposed above will constitute a determination that excluded uses would result in adulteration of the food in violation of section 402 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 342), and the failure of any person to come forward with proof of an applicable prior sanction in response to this proposal constitutes a waiver of the right to assert or rely on it later. Should any person submit proof of the existence of a prior sanction, the agency hereby proposes to recognize such use by issuing an appropriate final rule under Part 181 (21 CFR Part 181) or affirming it as GRAS under Part 184 or 186 (21 CFR Part 184 or 186), as appropriate.

Interested persons may, on or before April 11, 1983 submit to the Dockets Management Branch (address above) written comments regarding this proposal. Two copies of all comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: January 18, 1983.

William F. Randolph,

Acting Associate Commissioner for  
Regulatory Affairs.

[FR Doc. 83-3213 Filed 2-7-83; 8:45 am]

BILLING CODE 4160-01-M

## 21 CFR Part 184

[Docket No. 79N-0140]

### GRAS Status of Rennet; Tentative Final Rule

#### Correction

In FR Doc. 82-32727 beginning on page 54454 in the issue of Friday, December 3, 1982, make the following correction:

On page 54456, in § 184.1685(c)(2), the 19th and 20th lines from the top of the third column, now reading "as defined in § 170.3(n)(31) of this chapter." should have read "as defined in § 170.3(n)(22) of this chapter; and milk products as defined in § 170.3(n)(31) of this chapter."

BILLING CODE 1505-01-M

## 21 CFR Part 358

[Docket No. 82N-0214]

### OTC Drug Products for the Control of Dandruff, Seborrheic Dermatitis, and Psoriasis; Establishment of a Monograph

#### Correction

In FR Doc. 82-32846 beginning on page 54646 in the issue of Friday, December 3, 1982, make the following corrections:

1. On page 54659, third column, in the third and fourth lines from the top of the page, "20 percent coal tar zinc oxide paste" should have read "20 percent coal tar in zinc oxide paste".

2. On page 54660, the fourth line from the top of the third column now reading "(39) OTC Volume 160314" should have read "(39) OTC Volume 160134".

3. On page 54662, middle column, in the 15th line from the top of the page, "selenium suspension" should have read "selenium sulfide suspension".

4. On page 54669, third column, in the 11th line, "irritation of" should have read "irritation or".

5. On page 54670, third column, in the 26th line from the top of the page, "(Ref. 1)" should have read "(Ref. 2)".

6. On page 54675, first column, under References, item (5), the title of the article cited should have read "Comparative Effects of Hydrocortisone and Hydrocortisone-Coal Tar Extract Creams in Cases of Atopic Dermatitis".

BILLING CODE 1505-01-M

## 21 CFR Part 358

[Docket No. 82N-0214]

### Drug Products for the Control of Dandruff, Seborrheic Dermatitis, and Psoriasis for Over-the-Counter Human Use; Advance Notice of Proposed Rulemaking; Extension of Time for Comments and Reply Comments

AGENCY: Food and Drug Administration.

ACTION: Advance notice of proposed rulemaking; extension of comment periods.

**SUMMARY:** The Food and Drug Administration (FDA) is extending to April 4, 1983, the comment period and to May 4, 1983, the reply comment period for the advance notice of proposed rulemaking to establish conditions for the safety, effectiveness, and labeling of over-the-counter (OTC) drug products for the control of dandruff, seborrheic dermatitis, and psoriasis. This action is being taken in response to a request to allow more time for interested persons to address adequately several important issues raised by the Panel and to consult experts so that more informed comments may be submitted to FDA.

**DATES:** Written comments by April 4, 1983, and reply comments by May 4, 1983.

**ADDRESS:** Written comments to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** William E. Gilbertson, National Center for Drugs and Biologics (HFN-510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

**SUPPLEMENTARY INFORMATION:** In the Federal Register of December 3, 1982 (47 FR 54646), FDA issued an advance notice of proposed rulemaking to establish conditions for the safety, effectiveness, and labeling of OTC drug products for the control of dandruff, seborrheic dermatitis, and psoriasis. This advance notice of proposed rulemaking, which was based on the recommendations of the Advisory Review Panel on OTC Miscellaneous External Drug Products, is part of the ongoing review of OTC drug products conducted by the agency. Interested persons were given until March 3, 1983, to comment on the advance notice of proposed rulemaking and until April 4, 1983, for reply comments.

In response to the proposal, The Proprietary Association requested a 30-day extension of the comment period to

study the issues adequately and to confer with outside consultants. Because of the large number of ingredients the Panel placed in Category II (not generally recognized as safe and effective or misbranded) and Category III (available data insufficient for classification), the association stated its need to coordinate comments from a large number of subgroups of its member companies. The association also stated that it needs time to coordinate its comments on coal tar with those of a joint industry group that has sponsored new research on coal tar products for several years. The association pointed out that industry scientists have been heavily burdened recently with the need to respond to advance notices of proposed rulemaking that were published simultaneously for a number of OTC product categories, and with the tamper-resistant packaging issue, which is still requiring a heavy commitment of time and manpower.

FDA has carefully considered the request. The agency believes that information described by the request may be of assistance in establishing the safety and effectiveness of OTC drug products for the control of dandruff, seborrheic dermatitis, and psoriasis and is in the public interest. Because of the length of the Panel's report, the agency considers a general extension of the comment period for 30 days to be appropriate. Accordingly, the comment period for submissions by any interested person is extended to April 4, 1983, and the reply comment period is extended to May 4, 1983. Comments may be seen in the Dockets Management Branch, Food and Drug Administration, at the address noted above, between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 1, 1983.

William F. Randolph,  
Acting Associate Commissioner for  
Regulatory Affairs.

[FR Doc. 83-3165 Filed 2-2-83; 1:15 pm]

BILLING CODE 4160-01-M

## DEPARTMENT OF THE TREASURY

### Internal Revenue Service

#### 26 CFR Part 1

[LR-183-76]

#### Disallowance of Certain Items as Deductions for Estate and Income Tax Purposes.

**AGENCY:** Internal Revenue Service, Treasury.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** This document contains proposed regulations relating to the disallowance of certain items as deductions from the gross estate for estate tax purposes and from the gross income for income tax purposes. This document also contains proposed regulations disallowing items such as selling expenses to offset the sales price of property (for income tax purposes) if these items are deducted for estate tax purposes. Changes to the applicable tax law were made by the Act of October 4, 1966, and the Tax Reform Act of 1976. The regulations would provide the public with the guidance needed to comply with these acts and would affect executors or administrators of estates of decedents who die after the effective dates of these acts.

**DATES:** Written comments and requests for a public hearing must be delivered or mailed by April 11, 1983. The amendments are generally effective for taxable years beginning after December 31, 1953, and ending after August 16, 1954.

**ADDRESS:** Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LR:T, LR-183-76, Washington, D.C. 20224.

**FOR FURTHER INFORMATION CONTACT:** Neil W. Zyskind of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3289, not a toll-free call.

#### SUPPLEMENTARY INFORMATION:

##### Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 642(g) of the Internal Revenue Code of 1954 (Code). These amendments are proposed to conform the regulations to section 2 of the Act of October 4, 1966 (Pub. L. 89-621, 80 Stat. 872) and section 2009(d) of the Tax Reform Act of 1976 (Pub. L. 94-455, 90 Stat. 1896) and are to be issued under the authority contained in sections 642(g) and 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

##### Act of October 4, 1966

Generally, under prior law estates were prohibited from claiming an item as an income tax deduction of the estate if that same item was deducted in computing the taxable estate of a decedent for estate tax purposes. The Act of October 4, 1966, extended to trusts and other persons that same prohibition. Thus, if an estate deducts administration expenses in arriving at the estate tax base, a trust cannot also

deduct these same expenses in determining its income tax liability.

#### Sections 2053, 2054, Deductions Not To Be Used as an Offset Against Sales Price of Property

Section 642(g) of the Code was amended by section 2009(d) of the Tax Reform Act of 1976 in order to overturn the result reached in *Estate of V. E. Bray v. Commissioner*, 396 F. 2d 452 (6th Cir. 1968). In *Bray*, the Court of Appeals for the Sixth Circuit upheld a taxpayer's right to have selling expenses reduce the amount realized on the sale of property by an estate or trust even though these same selling expenses were deducted from the gross estate for estate tax purposes. The selling expenses were treated as an "offset" against the sales price of the property for income tax purposes. The provision overturning the *Bray* case is in § 1.642(g)-1(a) of the proposed regulations. An offset expense is defined in § 1.642(g)-1(b).

#### Requirement That Statement Be Filed

A second problem addressed in the proposed regulations is the situation in which taxpayers have failed to file the waiver required by section 642(g) and have simply deducted the same item from the gross estate for estate tax purposes and from the income of the estate for income tax purposes.

In a similar situation, taxpayers have claimed an administration expense or loss deduction under section 2053 or 2054 on Form 706 and then, a short time before the statutory period for assessment of the estate tax has expired, the estate claims the same deduction under section 642 for income tax purposes and files the required section 642(g) waiver.

In order to eliminate this abuse, the proposed regulations states specifically when the required waiver statement under section 642(g) must be filed and what the statement must say.

#### Revisions in § 1.642(g)-2

Section 1.642(g)-2 has been revised for stylistic purposes.

#### Regulatory Flexibility Act and Executive Order 12291

The Commissioner of Internal Revenue has determined that this proposed rule is not a major rule as defined in Executive Order 12291 and that a Regulatory Impact Analysis is therefore not required. Although this document is a notice of proposed rulemaking which solicits public comment, the Internal Revenue Service has concluded that the regulations proposed herein are interpretative and

that the notice and public procedure requirements of 5 U.S.C. 553 do not apply. Accordingly, these proposed regulations do not constitute regulations subject to the Regulatory Flexibility Act (5 U.S.C. Chapter 6).

#### Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably seven copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A public hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the *Federal Register*.

#### Drafting Information

The principal author of these proposed regulations is Neil W. Zyskind of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

#### List of Subjects in 26 CFR 1.641-1.692-1

Income taxes, Estates, Trusts and trustees, Beneficiaries.

#### Proposed Amendments to the Regulations

The proposed amendments to 26 CFR Part 1 are as follows:

Paragraph 1. Section 1.642(g)-1 is revised to read as follows:

##### § 1.642(g)-1 Disallowance of double deductions.

(a) *In general.* (1) This section provides rules concerning the allowance of certain items as deductions in computing the taxable income of the estate of a decedent or any other person. These are items allowable under section 2053(a)(2) (relating to administration expenses) or under section 2054 (relating to losses during administration) as deductions in computing the taxable estate of a decedent. These items are not allowed as deductions in computing the taxable income of the estate or any other person or as an offset against the sales price of property (as defined in paragraph (b) of this section) in determining gain or loss unless a statement as set forth in paragraph (a)(2) of this section is filed.

(2) The statement must list the items to be claimed as income tax deductions

or offset expenses and must state that the items have not been claimed as deductions on the estate tax return and will not be entered as deductions on the estate tax return (if it is yet to be filed). The statement must also state that the estate waives the right to have such items allowed at any time as deductions under section 2053 or 2054. The statement must be signed by the executor of the decedent's estate. The statement should be filed with the income tax return for the year for which the items are claimed as deductions or offset expenses. Alternatively, the statement may be filed with the Internal Revenue office with which the income tax return was filed for association with the return. If the item has been used to reduce the estate tax, the statement should be filed not later than 180 days prior to the expiration of the statutory period of limitations upon assessment and collection of the estate tax. If the estate has claimed the deduction for an item for estate tax purposes under section 2053 or 2054 and the waiver is not filed at least 180 days prior to such expiration, then that same item may not be claimed by any taxpayer as a deduction for income tax purposes unless and until the item is disallowed (or is no longer claimed) as a deduction under section 2053 or 2054, and any resulting deficiency has been timely assessed.

(3) After a statement is filed under section 642(g) with respect to a particular item or portion of an item, the item will not be allowed as a deduction for estate tax purposes because the waiver operates as a relinquishment of the right to have the deduction allowed at any time under section 2053 or 2054.

(b) *Offset expenses.* For purposes of this section, "offset against the sales price of property" includes any expense incurred in the sale of property, such as brokers' commissions, attorneys' fees, or filing fees.

(c) *Effective dates.* (1) Generally, this section applies to taxable years beginning after December 31, 1953, and ending after August 16, 1954.

(2) This section applies to taxpayers, other than estates of decedents, only (i) for taxable years ending after October 4, 1966, and (ii) as to amounts paid or incurred, and losses sustained, after October 4, 1966.

(3) This section applies to offset expenses, described in paragraph (b), for taxable years ending after October 4, 1976.

(4) The provisions of paragraph (a)(2) of this section, relating to the statement being filed not later than 180 days prior to the expiration of the statutory period of limitations, applies with respect to

estates of decedents dying after December 31, 1981.

Par. 2. Section 1.642(g)-2 is revised to read as follows:

##### § 1.642(g)-2 Deductions included.

(a) It is not required that the total deductions, or the total amount of any deduction, to which section 642(g) relates be treated in the same way. One deduction or portion of a deduction may be allowed for income tax purposes if the appropriate statement is filed, while another deduction or portion is allowed for estate tax purposes.

(b) Section 642(g) has no application to deductions for taxes, interest, business expenses, and other items accrued at the date of a decedent's death. Those items may be deducted under section 2053(a)(3) for estate tax purposes as claims against the estate and under section 691(b) for income tax purposes as deductions from income in respect of a decedent. However, section 642(g) applies to deductions for interest, business expenses, and other items not accrued at the date of the decedent's death.

(c) Although medical, dental, etc. expenses of a decedent that are paid by the estate of the decedent are deductible under section 2053(a)(3) in determining the value of the taxable estate of the decedent, those expenses are not deductible in computing the taxable income of the estate. See section 213(d) and the regulations under that section for rules relating to the deductibility of such expenses in computing the taxable income of the decedent.

Roscoe L. Egger, Jr.,

Commissioner of Internal Revenue.

[FR Doc. 83-3377 Filed 2-7-83; 8:45 am]

BILLING CODE 4830-01-M

## DEPARTMENT OF THE INTERIOR

### Office of Surface Mining Reclamation and Enforcement

#### 30 CFR Part 902

#### Comments Received From Federal Agencies on the Alaska State Permanent Program Submitted Under Pub. L. 95-87

**AGENCY:** Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

**ACTION:** Announcement of public disclosure of comments on the Alaska Program from the Environmental Protection Agency (EPA), the Department of Agriculture (USDA) and other federal agencies.

**SUMMARY:** Before the Secretary of the Interior may approve permanent state regulatory programs submitted under Section 503(a) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA), the views of certain federal agencies must be solicited and disclosed. The Secretary has solicited comments of these agencies on the Alaska State Permanent Program, and is today announcing their public disclosure.

**ADDRESSES:** For addresses of locations where copies of comments are available see "**SUPPLEMENTARY INFORMATION**".

**FOR FURTHER INFORMATION CONTACT:** Mr. Arthur Abbs, Chief, Division of State Program Assistance, Program Operations and Inspection, Office of Surface Mining Reclamation and Enforcement, U.S. Department of Interior, South Building, 1951 Constitution Avenue, NW., Washington, D.C. 20240, Phone: (202) 343-5361.

#### **SUPPLEMENTARY INFORMATION:**

##### **Availability of Copies**

Copies of the comments received are available for public inspection and copying during regular business hours at:

Office of Surface Mining, Administrative Record Office, Room 5315, 1100 L Street, NW., Washington, D.C. 20240

Wyoming Field Office, Office of Surface Mining, 935 Pendell Boulevard, Freeden Building, Mills, WY 82644

Division of Minerals and Energy Management, Department of Natural Resources, State of Alaska, 555 Cordova Street, Room 22, Anchorage, AK 99501

Department of Natural Resources, Division of Geological and Geophysical Surveys, 230 South Franklin Street, Room 401, Juneau, Alaska 99801

Department of Natural Resources, Division of Energy and Minerals Management, 4420 Airport Way, Fairbanks, Alaska 99701

#### **Federal Agency Comments**

The Secretary of the Interior is evaluating the Alaska permanent regulatory program submitted by Alaska for his review on July 23, 1982. See 47 FR 33520-33522 (August 3, 1982) and 47 FR 57511 (December 27, 1982). In accordance with Section 503(b)(1) of SMCRA and 30 CFR 732.13(b)(1), the Alaska program may not be approved until the Secretary has solicited and publicly disclosed the views of the Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the heads of other federal agencies concerned with or

having special expertise relevant to the program as proposed. In this regard, the following federal agencies were invited to comment on the Alaska program:

Department of the Interior:

National Park Service  
Bureau of Indian Affairs  
Bureau of Land Management  
U.S. Fish and Wildlife Service  
Bureau of Mines  
U.S. Geologic Survey  
Bureau of Reclamation  
Minerals Management Service

Department of Agriculture:

U.S. Forest Service  
Soil Conservation Service  
Alaska Land Use Council

Department of Energy

National Oceanic and Atmospheric Administration: National Marine Fisheries Service

U.S. Army Corps of Engineers  
Advisory Council on Historic Preservation

U.S. Environmental Protection Agency

Of those agencies invited to comment, OSM received comments from the following offices:

Department of Agriculture: U.S. Forest Service

U.S. Environmental Protection Agency  
Department of Interior: U.S. Fish and Wildlife Service

Dated: January 31, 1983.

William B. Schmidt,

*Assistant Director, Program Operations and Inspection.*

[FR Doc. 83-3115 Filed 2-7-83; 8:45 am]

**BILLING CODE 4310-05-M**

## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

[A-9-FRL 2279-2]

#### **Approval and Promulgation of Implementation Plans; California State Implementation Plan Revision**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The State of California has submitted to EPA volatile organic compound (VOC) rules covered by EPA's Group I and II Control Techniques Guidelines (CTG) documents for ozone nonattainment areas. These rules have been evaluated and found to be in conformance with the requirements of 40 CFR Part 51 and the CTG recommendations. Therefore, this notice proposes to approve the rule revisions and incorporate them into the State Implementation Plan (SIP). The intended

effect of these revisions is to control VOC emissions and meet requirements of the Clean Air Act.

**DATES:** Comments may be submitted up to March 10, 1983.

**ADDRESSES:** Comments may be sent to: Regional Administrator Attn: Air Management Division, Air Programs Branch, State Implementation Plan, Section (A-2-3), Environmental Protection Agency, Region 9, 215 Fremont Street, San Francisco, CA 94105.

Copies of the proposed revisions and EPA's associated Evaluation Report are available for public inspection during normal business hours at the EPA Region 9 office at the above address, and at the following location: California Air Resources Board, 1102 "Q" Street, P.O. Box 2815, Sacramento, CA 95812.

**FOR FURTHER INFORMATION CONTACT:** Douglas Grano, Chief, State Implementation Plan Section, Air Programs Branch, Air Management Division, Environmental Protection Agency, Region 9; (415) 974-7641.

#### **SUPPLEMENTARY INFORMATION:**

##### **Background**

The April 4, 1979, General Preamble (44 FR 20376) describes requirements for agencies to submit Reasonably Available Control Technology (RACT) regulations for certain sources of VOC located in ozone nonattainment areas. The first set of RACT regulations was required for sources covered by the Group I CTG documents published before January 1978. Regulations for sources covered by the Group I documents were to have been submitted by January 1, 1979. A second set of RACT regulations was required for sources covered by the Group II CTG documents, published between January 1978 and January 1979. Regulations for sources covered by the Group II CTG documents were to have been submitted by January 1, 1981.

EPA published the CTGs in order to assist the states in determining RACT. The CTGs contain information on available air pollution control techniques and provide recommendations on what EPA calls the "presumptive norm" for RACT.

The State has submitted to EPA all required rules covered by the Group I CTG documents. EPA has addressed these rules in several final rulemaking actions. This notice addresses recently submitted revisions to Group I CTG rules.

This notice also addresses the remaining new Group II rules and revisions to previously approved Group

II rules. EPA has addressed most of these rules in previous rulemaking actions (See 46 FR 38726 for a summary of the California districts' Group II CTG rules and a partial listing of the rulemaking actions). The State has now submitted to EPA all required rules covered by the Group II CTG documents, with the following exceptions: Kings County (rubber tires), San Diego County (pharmaceuticals), and Yolo-Solano District (graphic arts).

This notice also addresses revisions to previously approved, non-CTG rules submitted by the State to control other regionally significant sources of VOC, as needed to provide for attainment/maintenance of the ozone standard.

#### Description of Regulations

The State of California submitted revisions to the following regulations, which cover *Group I CTG categories*, on the dates indicated:

##### *Bay Area Air Quality Management District (AQMD)*

###### Regulation 8

Rule 5 Storage of Organic Liquids (8/6/82)

• Rule 8 Wastewater Separators (8/6/82)

Rule 10 Process Vessel

Depressurization (8/6/82)

##### *San Joaquin County Air Pollution Control District (APCD)*

Rule 412 Organic Liquid Loading (5/20/82)

##### *South Coast AQMD*

Rule 1128 Paper and Fabric Coating Operations (5/20/82)

In addition, the State submitted the following new and revised rules, which cover *Group II CTG categories*, on the dates indicated.

##### *Bay Area AQMD*

###### Regulation 8

Rule 14 Surface Coating of Large Appliances and Metal Furniture (5/20/82; revision)

Rule 18 Valves and Flanges at Refinery Complexes (5/20/82; revision)

Rule 19 Control of Volatile Organic Compound Emissions from Surface Coating of Miscellaneous Metal Parts and Products (5/20/82; revision)

##### *Monterey Bay Unified APCD*

Rule 428 Manufacture of Rubber Tires (5/20/82; new)

##### *South Coast AQMD*

Rule 467 Pressure Relief Devices (5/20/82; revision)

Rule 1102.1 Perchloroethylene Dry Cleaning (8/6/82; revision)

##### *Stanislaus County APCD*

Rule 409.4 Surface Coating of Manufactured Metal Parts and Products (8/6/82; revision)

Rule 409.8 Perchloroethylene Dry Cleaning Systems (8/6/82; new)

The State submitted revisions to other VOC rules as follows:

##### *Bay Area AQMD*

###### Regulation 8

Rule 2 Miscellaneous Operations (8/6/82)

Rule 4 General Solvent and Surface Coating Operations (8/6/82)

Rule 7 Gasoline Dispensing Facilities and Gasoline Delivery Vehicles (5/20/82)

##### *Fresno County APCD*

Rule 409.1 Architectural Coatings (8/6/82)

##### *South Coast AQMD*

Rule 442 Usage of Solvents (5/20/82)

##### *Tulare County APCD*

Rule 410.1 Architectural Coatings (5/20/82)

#### Evaluation

The two new rules will result in a significant emissions decrease. The revised rules do not significantly alter the emission limits. These revisions are minor and include new inspection requirements, exemptions added and deleted, specification of test methods, temporary exemptions, new interim limits and a requirement for the posting of Stage II operating instructions at service stations.

EPA has evaluated the revisions to the CTG Group I rules and the new and amended Group II rules listed above and determined that the RACT requirements are satisfied. Further, EPA has determined that the other VOC rules listed above strengthen the District requirements and provide controls necessary for the attainment and maintenance of the National Ambient Air Quality Standards.

#### Proposed Actions

EPA proposes to approve, under Part D, the rules listed above for the Group I and II categories. In addition, EPA proposes to approve the other rules listed in this notice, since they are consistent with the Clean Air Act, EPA policy and 40 CFR Part 51.

The Administrator has certified that SIP approvals do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.) The Office of Management and Budget has exempted this rule from the requirements of Section 3 of the Executive Order 12291.

#### List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations.

(Secs. 110, 129, 171 to 178 and 301(a) of the Clean Air Act as amended (42 U.S.C. 7410, 7429, 7501 to 7508, and 7601(a))

Dated: December 22, 1982.

Sonia F. Crow,

Regional Administrator.

[FR Doc. 83-3201 Filed 2-7-83; 8:45 am]

BILLING CODE 6560-50-M

#### 40 CFR Part 81

[TN-003; A-4-FRL 2292-6]

#### Designation of Areas for Air Quality Planning Purposes; Tennessee; Redesignation of Particulate Area

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** EPA proposes to approve a request made by Tennessee that the particulate attainment status of a portion of Roane County within the Clymersville section of Rockwood be redesignated from attainment to unclassifiable for particulates. The public is invited to submit comments on this proposal.

**DATE:** To be considered, comments must be received on or before March 10, 1983.

**ADDRESSES:** Copies of the materials submitted by Tennessee may be examined during normal business hours at the following locations:

Air Management Branch, EPA, Region IV, 345 Courtland Street, NE, Atlanta, Georgia 30365

Tennessee Department of Public Health, 150 9th Avenue North, Nashville, Tennessee 37203

#### FOR FURTHER INFORMATION CONTACT:

Raymond S. Gregory of the Region IV Air Management Branch at 404/881-3286 (FTS 257-3286).

**SUPPLEMENTARY INFORMATION:** On January 27, 1982, the Tennessee Air Pollution Control Board (Board) changed the attainment status of that portion of Roane County within the Clymersville section of Rockwood to unclassifiable for total suspended particulate matter (TSP) in relation to the National Ambient Air Quality Standards. Based on the information submitted, EPA, without prior proposal of its action, changed the attainment status designation of this area from attainment to unclassifiable (47 FR 47248 October 25, 1982).

In the final rule making the redesignation, EPA advised the public that the effective date of the action was deferred for 60 days (until December 25, 1982) to provide an opportunity to submit comments on it. EPA announced



that if notice were received within 30 days of the publication of the final rule that someone wanted to submit adverse or critical comments, the final action would be withdrawn and a new rulemaking would be begun proposing the action and establishing a 30-day comment period. EPA had earlier published a general notice explaining this special procedure (46 FR 44477, September 4, 1981).

EPA has received adverse comments on this redesignation. Accordingly, EPA is taking final action elsewhere in today's *Federal Register* to withdraw the October 25, 1982, redesignation and is in this notice proposing it for public comment. A more detailed description of the State's submittal and EPA's findings can be found in the October 25, 1982, rulemaking notice (47 FR 47248). The public is invited to submit written comments on this proposal; EPA will consider all comments received within 30 days of this date before taking final action on the redesignation request made by Tennessee.

Pursuant to the provisions of 5 U.S.C. 605(b), I hereby certify that the present rule will not, if promulgated, have a significant economic impact on a substantial number of small entities. This action imposes no regulatory requirements; it only changes the attainment status designation of a certain area from unclassifiable to attainment for particulates.

The Office of Management and Budget has exempted this rule from the requirements of Section 3 of Executive Order 12291.

#### List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

(Sec. 107 of the Clean Air Act (42 U.S.C. 7407))

Dated: February 1, 1983.

Anne M. Gorsuch,  
Administrator.

[FR Doc. 83-3206 Filed 2-7-83; 8:45 am]

BILLING CODE 6580-50-M

**SUMMARY:** This notice announces the time and place for a public hearing on EPA's proposed revisions to the definition of useful life applicable to 1985 and later model year light-duty trucks (LDTs) and heavy-duty engines (HDEs). This proposal was published in the *Federal Register* on January 12, 1983, (48 FR 1472) and the details of the proposal were published as part of a parallel final rulemaking published on the same day (48 FR 1406). The public hearing will be preceded by a preliminary public meeting to provide an opportunity for commenters to clarify questions they may have on the content of the EPA proposal.

**DATES:** This hearing is scheduled to take place on March 10, 1983. The hearing will be convened at 9:00 a.m. and will adjourn at 5:00 p.m. or such later time as may be necessary for completion of testimony. The hearing will be extended over to March 11, 1983, if additional time is needed for completion of testimony. The preliminary public meeting is scheduled to take place on February 18, 1983, at 10:30 a.m.

**ADDRESSES:** The preliminary meeting and the public hearing will be held in the Conference Room of the Environmental Protection Agency, Motor Vehicle Emissions Laboratory, 2565 Plymouth Road, Ann Arbor, MI 48105. Materials relevant to the proposed LDT/HDE useful life definitions are available in Public Docket No. A-81-11. This docket is located at the Environmental Protection Agency, Central Docket Section, West Tower Lobby, Gallery 1, 401 M Street SW., Washington, D.C. 20460. The docket is open for inspection weekdays between 8:00 a.m. and 4:00 p.m. A reasonable fee may be charged for providing copies of material in the docket.

**FOR FURTHER INFORMATION CONTACT:** Mr. Terry P. Newell, U.S. Environmental Protection Agency, Emission Control Technology Division, 2565 Plymouth Rd., Ann Arbor, MI 48105, Telephone: (313) 668-4462.

#### SUPPLEMENTARY INFORMATION:

##### I. Additional Information

In response to comments from the manufacturers citing implementation difficulties with full-life useful life, EPA proposed a modified (assigned) full-life useful life concept. In addition, EPA proposed as an alternative an extended half-life useful life approach. EPA intends to adopt one of these alternatives in the final rule instead of the current 1985 full-life requirements.

EPA notes that the proposal as published January 12, 1983 did not

specifically address the effect of the proposed extended half-life definition on emission standards for LDTs sold at high altitude. To avoid any misunderstanding, EPA wishes to clarify its intent in this area. In the event that the extended half-life option is adopted, the high-altitude LDT gaseous emission standards will be adjusted so as to maintain the proportional relationship that now exists between low- and high-altitude LDT standards. Under this approach, the adjusted standards at high altitude would be 0.83 g/mi HC and 12.3 g/mi CO.

##### II. Public Participation

A preliminary meeting will be held on February 18, 1983. The purpose of this meeting is to provide an opportunity to clarify the EPA proposals by allowing interested parties to ask questions regarding the proposed useful life concepts and their implications. No advance registration for this preliminary meeting is required. All interested parties are invited to attend.

Any person desiring to make a statement at the public hearing should, if possible, notify the contact person indicated above of such intention, in writing or by telephone, by February 18, 1983. When notifying the contact person of your intent to make a statement at the hearing, be prepared to give an estimate of the time required for your testimony, to specify any need for audio-visual equipment, and to state any preferences for the scheduling of your testimony. Such preferences will be honored to the extent possible. For those not expressing a preference at that time, a sign-up sheet for order of testimony will be available at the registration table the morning of the hearing. It is suggested that approximately 50 copies of the statement or material be brought to the hearing for distribution to the audience.

The record of the hearing will remain open for 30 days following the close of the hearing to allow submission of rebuttal testimony and supplementary information. Any material submitted during this period of time should be sent to the EPA Central Docket Section at the address given above, Attention: Docket No. A-81-11. It is also requested, but not required, that a copy of this submittal be sent directly to the contact person indicated above.

Commenters desiring to submit proprietary information should clearly distinguish such information from other comments to the greatest extent possible, and label it "Confidential Business Information." Submissions containing such proprietary information should be sent directly to the EPA

#### 40 CFR Part 86

[AMS-FRL 2302-4]

#### Control of Air Pollution From New Motor Vehicles and New Motor Vehicle Engines; Gaseous Emission Regulations for 1985 and Later Model Year Light-Duty Trucks and Heavy-Duty Engines

**AGENCY:** Environmental Protection Agency.

**ACTION:** Notice of public hearing.



contact person indicated above, and not to the Public Docket, to insure that proprietary information is not inadvertently placed in the docket.

Information covered by such a proprietary claim will be disclosed by EPA only to the extent, and by means of the procedures, set forth in 40 CFR Part 2. If no claim of confidentiality accompanies the information when it is received by EPA, it may be made available to the public without further notice to the commenter.

Mr. Richard D. Wilson, Director, Office of Mobile Sources, is hereby designated as the Presiding Officer of the hearing. The hearing will be conducted informally and technical rules of evidence will not apply. A written transcript of the hearing will be taken. Anyone desiring to purchase a copy of this transcript should make arrangements individually with the court reporter recording the hearing.

Dated: February 1, 1983.

**Kathleen M. Bennett,**

*Assistant Administrator for Air, Noise and Radiation.*

[FR Doc. 83-3297 Filed 2-7-83; 8:45 am]

BILLING CODE 6560-50-M

#### 40 CFR Part 256

[SW-3-FRL 2298-7]

##### State of Delaware's Application for Approval of Solid Waste Management Plan

**AGENCY:** Environmental Protection Agency (EPA), Region III.

**ACTION:** Notice of availability of Delaware's solid waste management plan for public comment.

**SUMMARY:** As provided by the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, the State of Delaware has received Federal financial assistance for development of a state solid waste management plan. EPA is today soliciting public comments on whether the State of Delaware's solid waste management plan meets EPA's guidelines for the approval of State solid waste management plans under Subtitle D of the Resource Conservation and Recovery Act of 1976, as amended.

**DATE:** Comments on Delaware's solid waste management plan must be received by March 10, 1982.

**ADDRESS:** Written comments should be sent to: John A. Armstead, EPA Region III, 6th and Walnut Sts., Philadelphia, Pa. 19106; (215) 597-7259.

Copies of Delaware's solid waste management plan are available at the

following addresses for inspection and copying by the public:

William Razor, Supervisor, Solid Waste Management Branch, 89 Kings Highway, P.O. Box 1401, Dover, Delaware 19901; (302) 736-4781;

Diane McCreary, Librarian, EPA Region III, Regional Library, 6th and Walnut Sts., Philadelphia, Pa. 19106; (215) 597-0580; or

EPA Headquarters Library, Room 2404, 401 M Street, SW., Washington, D.C. 20460; (202) 382-5926.

**SUPPLEMENTARY INFORMATION:** Under Subtitle D of the Resource Conservation and Recovery Act of 1976, as amended ("RCRA"), EPA is authorized to approve State solid waste management plans. The criteria for approving those plans are set forth in EPA's Guidelines for Development and Implementation of State Solid Waste Management Plans ("Guidelines"), codified at 40 CFR Part 256. Among other things, the Guidelines require that plans identify a general strategy for achieving the following objectives:

- Protecting human health and the environment from adverse effects associated with solid waste disposal;
- Prohibiting the establishment of new open dumps;
- Encouraging resource recovery and resource conservation;
- Providing adequate disposal capacity in the State;
- Establishing priorities for State solid waste activities; and
- Dealing with other issues relevant to solid waste management.

The State plan must also set forth the institutional arrangements that the State will use to implement this strategy.

Under RCRA and the Guidelines, EPA's approval of a State plan has two major implications. First, it permits the State to issue compliance schedules which can shield entities from citizen suits seeking to enforce the Federal prohibition on open dumping in Section 4005(a) of RCRA. Second, it may affect the State's eligibility for Federal funding under Sections 4007 and 4008 of RCRA. Once a plan has been approved, EPA must withhold Subtitle D technical and financial assistance to the State if the Administrator at any time determines that the plan is no longer in compliance with the Guidelines and withdraws approval. See Section 4007(b)(3).

On December 21, 1982, the State of Delaware submitted its solid waste management plan to EPA for approval. EPA is soliciting public comment on whether this plan meets the requirements set forth in the Guidelines. In particular, EPA is seeking comment on the following issues:

- Does the plan effectively prohibit the establishment of new open dumps?
- Does the plan provide authority to upgrade or close existing open dumps?
- If the plan does not meet the Guidelines in its entirety, can it be approved in part? See 40 CFR 256.04, as amended by 46 FR 47048 (September 23, 1981).

#### List of Subjects in 40 CFR Part 256

Grants program, Environmental protection, Waste treatment and disposal.

[Sec. 4007(a), Pub. L. 94-580, 90 Stat. 281T (42 U.S.C. 6947)]

Dated: January 25, 1983.

**Peter N. Bibko,**

*Regional Administrator.*

[FR Doc. 83-3061 Filed 2-7-83; 8:45 am]

BILLING CODE 6560-50-M

#### 40 CFR Part 455

[WH-FRL 2300-6]

##### Pesticide Chemicals Category Effluent Limitations Guidelines, Pretreatment Standards and New Source Performance Standards

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Correction of proposed rule; extension of comment period.

**SUMMARY:** On November 30, 1982, EPA proposed guidelines, pretreatment standards and new source performance limitations standards for the Pesticide Chemicals Category under the Clean Water Act (47 FR 53994). In reviewing these effluent limitations guidelines and standards, the Agency has identified a number of typographical and other errors requiring correction. This notice makes these changes and modifies the previous proposal accordingly. Furthermore, EPA is extending the comment period on the proposed regulation from January 31, 1983 to March 2, 1983.

**DATES:** Comments on this proposal must be submitted by March 2, 1983.

**FOR FURTHER INFORMATION CONTACT:** Mr. George M. Jett (202) 382-7180, Effluent Guidelines Division (WH-552), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460.

**ADDRESSES:** Send comments to Mr. George M. Jett, Effluent Guidelines Division (WH-552), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Attention: Pesticide Chemicals Rules. The supporting information and all

comments on this proposal will be available for inspection and copying at the EPA Public Information Reference Unit, Room 2404 (Rear) (EPA Library). The EPA public information regulation (40 CFR Part 2) provides that a reasonable fee may be charged for copying.

#### SUPPLEMENTARY INFORMATION:

This notice is organized as follows:

- I. Summary of Corrections
- II. Extension of Comment Period

#### I. Summary of Corrections

On November 30, 1982 EPA proposed effluent limitations guidelines and standards for the pesticide category, (47 FR 53994). In reviewing this proposal the Agency has identified a number of typographical and other errors requiring correction. Most of the changes made today are corrections to the numerical limitations and standards, the names of pollutants to be regulated, and the subpart identification. The flow and technology basis underlying the effluent limitations guidelines and standards have not been changed from those discussed in the proposed regulations and in the technical development document entitled *Development Document for Effluent Limitations Guidelines and Standards for the Pesticide Category*.

The corrections to the proposed pesticide regulations are discussed as follows:

1. The Impact Summary under PSES in Section XV; Cost, Cost Effectiveness, and economic impacts (47 FR 54007) currently states that "Two plants and two production lines may close." This is a typographical error. The proposed regulation is revised to read "Two plants and five production lines may close."

2. 40 CFR Subpart A 455.22 refers to a "BOD" effluent limitation (47 FR 54028). This is a mistake. The "BOD" Effluent Limitation is corrected to read "BOD5."

3. There is a typographical error which appears at 40 CFR Subpart D 455.52 (47 FR 54030). The table is incorrectly identified as "BAT effluent limitations" and is corrected to read "BPT effluent limitations"

4. There is a typographical error which appears at 40 CFR Subpart D 455.54 (47 FR 54030). The table is incorrectly identified as "BPT-effluent limitations" and is corrected to read "BAT effluent limitations."

5. There are typographical errors in 40 CFR Subpart D at 455.57 (47 FR 54030). This section is incorrectly numbered 455.57 and is renumbered as 455.56. All references to "(PSNS)" in this section are corrected to read "(PSES)".

6. There are typographical errors at 40 CFR Subpart D 455.56 (47 FR 54030). This section is incorrectly numbered 455.56 and is renumbered as 455.57 for new sources. Also, all references to "(PSES)" in this section are corrected to read "(PSNS)".

7. There are typographical errors at 40 CFR Subpart E 455.60 (47 FR 54031). Some of the pesticides in 455.60(a) are misspelled and should be corrected as follows:

Errors	Corrections
Chlorbenzene.....	Chlorobenzene.
Chlorbezilate.....	Chlorobenzilate.
Chlorphacinone.....	Chlorophacinone.
Cyhanatin.....	Cyhexatin.
Dichlorbenzene, ortho.....	Dichlorobenzene, ortho.
Dichlorbenzene, para.....	Dichlorobenzene, para.
Fluridone.....	Fluoridone.
Methyomyl.....	Methomyl.
Oxyflurorfon.....	Oxyfluorfen.

8. There are typographical errors in 40 CFR Subpart E at 455.62 (47 FR 54031). The table in this section is incorrect. The captions "BPT effluent limitations" and "Pollutants or pollutant property" should be revised as follows:

SUBPART E

Pollutants or pollutant properties	BPT effluent limitations	
	Maximum for any 1 day	Average of daily values for 30 consecutive days

9. There is a typographical error in 40 CFR Subpart E 455.64 (47 FR 54031). The "BAT effluent limitations" table incorrectly lists the pollutant "chlorform" and is corrected to read "chloroform." Furthermore, footnote 2 incorrectly lists "chlorbenzilate" and "Nale" and are corrected to read "chlorobenzilate" and "Naled."

10. There are typographical errors in 40 CFR Subpart E 455.65 and 455.66 (47 FR 54031, 54032). The products in footnote 2 are incorrectly listed as "chlorbenzilate" and "Nale" and are corrected to read "Chlorobenzilate" and "Naled."

11. Similar typographical errors are in 40 CFR Subpart E 455.67 (47 FR 45032). The products in footnote 2 to this section are incorrectly listed as "Bentzon", "chlorbenzilate", "Nale", and "Trichloronate" and are corrected to read "Bentazon", "Chlorobenzilate", "Naled" and "Trichloronate."

12. A series of typographical errors appear at 40 CFR Subpart H. 455.96 (47 FR 54034). The table is corrected to read:

SUBPART H

Pollutants or pollutant properties	Pretreatment standards for existing sources <sup>1</sup>	
	Maximum for any 1 day	Average of daily values for 30 consecutive days
Nonconventional		
Pesticide Pollutant <sup>2</sup>	0.138	0.0255
Priority Pollutants <sup>3</sup> :		
Benzene.....	0.278	0.0870
Toluene.....	0.278	0.0781
Carbon tetrachloride.....	0.278	0.111
Chloroform.....	0.278	0.111
Methyl chloride.....	0.278	0.111
Methylene chloride.....	0.278	0.111
Copper.....	0.0733	0.0238
Zinc.....	0.0570	0.0247
Hexachlorocyclopentadiene.....	0.00643	0.00241

13. A typographical error appears in 40 CFR Subpart H 455.97 (47 FR 54034). The maximum for any 1 day standard for the pollutant methylene chloride is incorrectly listed as "0.00278" and is corrected to read "0.278."

14. A typographical error appears in 40 CFR Subpart I 455.105 (47 FR 54035). The maximum for any 1 day limitation for the pollutant TSS is incorrectly listed as "6.400" and is corrected to read "6.100."

15. A pair of typographical errors appear in 40 CFR Subpart I 455.107 (47 FR 54035). The table is incorrectly identified as "Pretreatment standards for existing sources" and is corrected to read "Pretreatment standards for new sources<sup>1</sup>." The maximum for any 1 day for the pollutant cyanide is incorrectly listed as "0.0488" and is corrected to read "0.00488."

16. A typographical error appears in 40 CFR Subpart K 455.125 (47 FR 54036). The spellings of pollutants "N-nitrosodipropylamine" and "Hexachlorocyclopentadiene" are corrected to read "N-nitrosodipropylamine" and "Hexachlorocyclopentadiene."

17. A typographical error appears in 40 CFR Subpart K 455.127 (47 FR 54037). The average of daily values for 30 consecutive days for N-nitrosodipropylamine is incorrectly listed as "0.000485" and is corrected to read "0.0000485."

18. A typographical error appears in 40 CFR Subpart K 455.134 (47 FR 54037). A pollutant is incorrectly identified as "carbon tetrachloride" and is corrected to read "Carbon tetrachloride".

19. Typographical errors appear in 40 CFR Subpart L 455.136 (47 FR 54038). The average of daily values for 30 consecutive days for chlorobenzene and toluene are listed as "0.0781" and "0.111" respectively and are corrected to read "0.0870" and 0.0781" respectively.

20. Typographical errors appear in 40 CFR Subpart M 455.146 and 455.147 (47 FR 54039). The maximum for any 1 day and the average of daily values for 30 consecutive days is reported as "0.00119" and "0.00244" respectively and is corrected to read "0.00238" and "0.00488" respectively.

21. Typographical errors appear in 40 CFR Subpart O 455.160 (47 FR 54040). A priority pollutant regulated for Anilazine is incorrectly listed as "Tetrochloroethylene" and is corrected to read Tetrachloroethylene.

22. Typographical errors appears in 40 CFR Subpart O 455.160 (47 FR 54041). The pollutant regulated for Bolstar is incorrectly identified as "Tetrachlorethylene" and is corrected to read "Tetrachloroethylene".

The Volatile Aromatics listed for Carbophenothion does not list "chlorobenzene" as a pollutant to be regulated for "Carbophenothion". (47 FR 54041) "Chlorobenzene" is now listed in this subpart.

The pesticide "Glyodin" lists "toluene" as a priority pollutant regulated and is corrected to show that Glyodin does not regulate any priority pollutants (47 FR 54044).

23. The effluent limitations guidelines and standards in 40 CFR Part 455 subparts B, C, and N refer to both "no discharge of process wastewaters" and "no discharge of process wastewater pollutants." The Agency feels that these effluent limitations guidelines/standards are interchangeable since process wastewaters are highly contaminated and accordingly, as a practical matter, it would be impossible to discharge process wastewaters without discharging pollutants. Both terms mean no flow of process wastewaters. The Agency requests comment on whether this position is appropriate. In order to alleviate any confusion arising from the existing regulatory language, the following sections of 40 CFR Part 455 are corrected to read "No discharge of process wastewater":

1. Subpart B 455.35 (47 FR 54029)
2. Subpart B 455.36 (47 FR 54029)
3. Subpart B 455.37 (47 FR 54029)
4. Subpart C 455.45 (47 FR 54029)
5. Subpart C 455.46 (47 FR 54029)
6. Subpart C 455.47 (47 FR 54029)
7. Subpart N 455.154 (47 FR 54039)
8. Subpart N 455.155 (47 FR 54040)
9. Subpart N 455.156 (47 FR 54040)
10. Subpart N 455.157 (47 FR 54040)

All other limitations, standards, spellings of pollutants names and titles of subpart sections are unchanged from the November 30, 1982 *Federal Register* Notice (47 FR 53994).

## II. Extension of Comment Period

On November 30, 1982, EPA proposed effluent limitations guidelines and standards for the pesticide industry. The November 30, 1982, notice stated that the comments on the proposal were to be submitted by January 31, 1983. The Agency has received numerous requests from the pesticide industry stating that they need additional time to comment fully on the proposed regulation. In addition, the industry has assured us that they will conduct sampling and analysis to generate additional data for the Agency. In order to allow the industry the time needed for them to conduct the additional sampling and analysis, EPA is extending the comment period to March 2, 1983. This extension will give all members of the public adequate time to comment fully on this regulation.

The deadline for all comments pertaining to the material published at 47 FR 53994 on November 30, 1982 and the corrections made today, is March 2, 1983.

Dated: January 28, 1983.

Frederic A. Eidsness, Jr.,  
Assistant Administrator for Water.

[FR Doc. 83-3196 Filed 2-7-83; 8:45 am]

BILLING CODE 6560-50-M

## OFFICE OF PERSONNEL MANAGEMENT

### 45 CFR Part 801

#### Voting Rights Program, Appendix A; Georgia

**AGENCY:** Office of Personnel Management.

**ACTION:** Proposed rulemaking.

**SUMMARY:** This Notice identifies the location of a new office for filing applications or complaints under the Voting Rights Act of 1965, as amended.

**DATE:** Comments must be submitted on or before April 11, 1983.

**ADDRESS:** Send or deliver comments to Anthony F. Ingrassia, Assistant Director for Agency Compliance and Evaluation, Room 5450, Office of Personnel Management, Washington, D.C. 20415.

**FOR FURTHER INFORMATION CONTACT:** Mr. Michael Clogston, Coordinator, Voting Rights Program, Office of Personnel Management, Washington, D.C. 20415, 202-5691.

**SUPPLEMENTARY INFORMATION:** The Attorney General has designated an additional examination point as coming under the provisions of the Voting Rights Act of 1965, as amended. He has determined that this designation is

necessary to enforce the guarantees of the Fourteenth and Fifteenth amendments to the Constitution. Accordingly, pursuant to Section 6 of the Voting Rights Act of 1965, as amended, 42 U.S.C. 1973d, the U.S. Office of Personnel Management is proposing to appoint Federal examiners to review the qualifications of applicants to be registered to vote.

### E.O. 12291, Federal Regulation

OPM has determined that this is not a major rule as defined under Section 1 (b) of E.O. 12291, Federal Regulation.

### Regulatory Flexibility Act

I certify that this regulation would not have a significant economic impact on a substantial number of small entities because its purpose is the addition of one county to the list of counties in the regulation concerning OPM's responsibilities under the Voting Rights Act.

### List of Subjects in 45 CFR Part 801

Administrative practice and procedures, Voting rights.

U.S. Office of Personnel Management.

Donald J. Devine,

Director.

### PART 801—[AMENDED]

Accordingly, the Office of Personnel Management proposes to amend 45 CFR Part 801, Appendix A, by adding Burke County, Georgia, to read as follows:

Georgia

County; Place for filing; Beginning date

\* \* \* \* \*

Burke; Waynesboro—U.S. Post Office, 721 Liberty Street, Room 204; November 2, 1982 (5 U.S.C. 1103; Secs. 7, 9, 79 Stat. 440, 441 (42 U.S.C. 1973c, 1973g))

[FR Doc. 83-3273 Filed 2-7-83; 8:45 am]

BILLING CODE 6325-01-M

## FEDERAL MARITIME COMMISSION

### 46 CFR Ch. IV

[Docket No. 82-14]

#### Inquiry Regarding Regulation of the Domestic Offshore Trades

**AGENCY:** Federal Maritime Commission.

**ACTION:** Discontinuance of Inquiry.

**SUMMARY:** The Commission instituted this inquiry by Notice published March 5, 1982 (47 FR 10600) to seek public comment on the effectiveness of regulation of the domestic offshore trades under the Intercoastal Shipping Act, 1933 (46 U.S.C. 843) and the

regulatory and legislative changes necessary to improve the system. The Commission, having reviewed the comments filed in this Inquiry and having transmitted an appraisal of regulation in the domestic offshore trades to appropriate committees of Congress, hereby discontinue this

Inquiry. The Commission wishes to express its appreciation to commentators for their assistance in analyzing and developing a revised approach to shipping in these trades.

**FOR FURTHER INFORMATION CONTACT:**  
Francis C. Hurney, Federal Maritime

Commission, Room 11101, Washington, D.C. 20573, (202) 523-5725.

By the Commission.

**Francis C. Hurney,**  
*Secretary.*

[FR Doc. 82-3263 Filed 2-7-83; 8:45 am]

**BILLING CODE 6730-01-M**

# Notices

Federal Register

Vol. 48, No. 27

Tuesday, February 8, 1983

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Agricultural Marketing Service

#### Advisory Committee on Instrument Standards for Cotton;

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463) announcement is made of the following meeting.

Name: Advisory Committee on Instrument Standards for Cotton.

Date: March 22, 1983.

Place: Civic Center Auditorium, 1501 Sixth Street, Lubbock, Texas 79401.

Time: 8:30 a.m. to 4:30 p.m.

Purpose: The Agenda will include discussion and disposition of the list of technical issues developed at the first Committee meeting which was held on November 4 and 5, 1982 in Washington, D.C.

The meeting is open to the public. Public participation will be limited to written statements received prior to the meeting. Written statements should be addressed to Jesse F. Moore, Director, Cotton Division, Agricultural Marketing Service, U.S. Department of Agriculture, Annex Building, Room 302, Washington, D.C. 20250 (202) 447-3193.

Dated: February 2, 1983.

William T. Manley,

Deputy Administrator, Marketing Program Operations

[FR Doc. 83-3369 Filed 2-7-83; 8:45 am]

BILLING CODE 3410-02-M

## Commodity Credit Corporation

### Wheat Flour Exports to Egypt

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice.

SUMMARY: The Commodity Credit Corporation ("CCC") announces that it is accepting bids in connection with the

export of wheat flour to the Arab Republic of Egypt ("Egypt").

DATE: Bids for the first increment will be invited by CCC no later than February 11, 1983.

ADDRESS: Copies of the invitation for bids and CCC Announcement KC-EWP-1 may be obtained from the Kansas City Field Office, P.O. Box 8510, Wornall Station, Kansas City, Missouri 64114. Phone (816) 926-6408. Offers may be submitted to the same address. Comments should be submitted to the Deputy Administrator, Commodity Operations, Agricultural Stabilization and Conservation Service, USDA, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: James Knight, Chief, Bulk Commodities Division (Phone (816) 926-6406) or David G. Bell, Chief, Processed Commodities Division, Kansas City Field Office, P.O. Box 8510 Kansas City, Missouri 64114 (Phone (816) 926-6408).

SUPPLEMENTARY INFORMATION: On January 17, 1983, CCC signed a Memorandum of Understanding on Commercial Wheat Flour Trade Between the Commodity Credit Corporation, USA, and the General Authority for Supply Commodities, Egypt. That Memorandum of Understanding provided, in part, that Egypt would import one million metric tons of U.S. wheat flour from the private trade in the United States by April 30, 1984, at a price of \$155 per net metric ton C&F free out Alexandria or Port Said.

In order to allow the private trade to supply this amount at the stated price, CCC will furnish wheat from CCC owned stocks on a competitive bid basis to those who supply wheat flour to Egypt. Title to the CCC owned wheat will pass only after CCC receives proof of export of the flour to Egypt.

In general, the system will work as follows. The bidder will indicate the amount of wheat desired from CCC stocks per ton of wheat flour supplied to Egypt. The lowest bids will be accepted until the total of the bids accepted is enough to satisfy the total quantity of wheat flour to be shipped to Egypt. Egypt will then contract with the successful bidders for the delivery of the flour to Egypt. After export has occurred, CCC will transfer title to the CCC-owned wheat to the successful bidders. Details of the bid are contained in CCC Announcement KC-EWP-1.

Egypt has stated that its first purchase under this agreement will be 70,000 metric tons of wheat flour for shipment in March, 1983. After this first purchase, it is expected that there will be monthly invitations for bids for further purchases. Egypt has indicated that it will purchase 130,000 tons in each of the months of April and May and 120,000 tons in June 1983. The invitations for bids for these and subsequent purchases will be announced in trade publications and mailed to interested parties.

CCC invites the public to comment on this system and to propose alternate systems at any time during the course of the Memorandum of Understanding with Egypt.

Signed at Washington, D.C. on February 4, 1983.

Clarence L. Tardy,

Acting Executive Vice President, CCC.

[FR Doc. 83-3418 Filed 2-8-83; 11:41 am]

BILLING CODE 3410-10-M

## DEPARTMENT OF COMMERCE

### Foreign-Trade Zones Board

[Order No. 203]

#### Approval for Relocation of Foreign-Trade Zone No. 34, Niagara County, New York, Within the Buffalo/Niagara Falls Customs Port of Entry

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), and the Foreign-Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board (the Board) adopts the following order:

Whereas, the County of Niagara, New York, Grantee of Foreign-Trade Zone No. 34, has applied to the Board for authority to relocate its general-purpose zone within Niagara County from the Township of Porter to the Niagara Falls International Airport in the Town of Wheatfield, within the Buffalo/Niagara Falls Customs port of entry;

Whereas, the application was accepted for filing on January 12, 1982, and notice inviting public comment was given in the *Federal Register* on January 20, 1982 (47 FR 2890);

Whereas, an examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

Whereas, the relocation is necessary for the development of the project; and

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, therefore, the Board hereby orders:

That the Grantee is authorized to relocate its zone in accordance with the application filed January 12, 1982. The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations. The authority given in this Order is subject to settlement locally by the District Director of Customs and the District Army Engineer regarding compliance with their respective requirements relating to foreign-trade zones.

Signed at Washington, D.C., this 27th day of January 1983.

Foreign-Trade Zones Board.

Lawrence J. Brady,

*Assistant Secretary of Commerce for Trade Administration, Chairman, Committee of Alternates.*

Attest:

John J. Da Ponte, Jr.,  
*Executive Secretary.*

[FR Doc. 83-3372 Filed 2-7-83; 8:45 am]

BILLING CODE 3510-25-M

#### [Order No. 204]

#### Approval for Expansion of Foreign-Trade Zone No. 19, Omaha, Nebraska, Within the Omaha Customs Port of Entry

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a-81u), and the Foreign-Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board (the Board) adopts the following order:

Whereas, the Dock Board of the City of Omaha, Nebraska, Grantee of Foreign-Trade Zone No. 19, has applied to the Board for authority to expand its general-purpose zone located at the Omaha Municipal Dock, to include an industrial park site near Eppley Airfield in Omaha, within the Omaha Customs port of entry;

Whereas, the application was accepted for filing on April 15, 1982, and notice inviting public comment was given in the *Federal Register* on April 22, 1982 (47 FR 17317);

Whereas, as examiners committee has investigated the application in accordance with the Board's regulations and recommends approval;

Whereas, the expansion is necessary to provide zone services to new tenants whose operations cannot be accommodated within existing zone space; and

Whereas, the Board has found that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that approval of the application is in the public interest;

Now, Therefore, the Board hereby orders:

That the Grantee is authorized to expand its zone in accordance with the application filed April 15, 1982. The Grantee shall notify the Executive Secretary of the Board or approval prior to the commencement of any manufacturing operations. The authority given in this Order is subject to settlement locally by the District Director of Customs and the District Army Engineer regarding compliance with their respective requirements relating to foreign-trade zones.

Signed at Washington, D.C., this 27th day of January 1983.

Foreign-Trade Zones Board.

Lawrence J. Brady,

*Assistant Secretary of Commerce for Trade Administration Chairman, Committee of Alternates.*

Attest:

John J. Da Ponte, Jr.,  
*Executive Secretary.*

[FR Doc. 83-3373 Filed 2-7-83; 8:45 am]

BILLING CODE 3510-25-M

#### National Oceanic and Atmospheric Administration

##### [Modification No. 1 to Permit No. 364]

#### Mystic Marinelife Aquarium; Permit Applications

Notice is hereby given that pursuant to the provision of Section 216.33 (d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), Public Display Permit No. 364 issued to Mystic Marinelife Aquarium, Mystic, Connecticut 06355, on January 22, 1982, (47 FR 4548) is modified to include the taking of pilot whales by directed operations and to correct an error in the number of species authorized to be taken and imported.

Accordingly, Special Condition B.1 is deleted and replaced by:

1. All four species may be taken and imported from animals taken during the course of Canadian commercial fishing operations. The pilot whales may be taken by directed capture operations in Canadian waters as described in the modification

request. The harbor porpoises may be taken from animals caught in fish weirs in the waters of Maine.

This modification becomes effective upon publication in the *Federal Register*.

This Permit as modified and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries,  
National Marine Fisheries Service,  
3300 Whitehaven Street NW.,  
Washington, D.C.; and  
Regional Director, National Marine Fisheries Service, Northeast Region,  
14 Elm Street, Federal Building,  
Gloucester, Massachusetts 01930.

Dated: January 27, 1983.

Richard B. Roe,

*Acting Director, Office of Protected Species and Habitat Conservation, National Marine Fisheries Service.*

[FR Doc. 83-3371 Filed 2-7-83; 8:45 am]

BILLING CODE 3510-22-M

#### Office of the Secretary

#### Agency Forms Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of the Census.

Title: Survey of Pension and Retirement Plan Coverage.

Form No.: Agency—CPS-684.

Type of request: New.

Burden: 30,000 respondents; 6,000 reporting hours.

Needs and uses: These survey data will measure the extent to which retirement benefits are provided and protected by both public and private pension system. The characteristics of both covered and uncovered workers will also be provided. The data collected will be used as a supplement to the Current Population Survey and will also be used in formulating policies to protect the continued well-being and security of the Nation's work force.

Affected public: Households in one-half of the Current Population Survey sample.

Frequency: On occasion.

Respondent's obligation: Voluntary.

OMB desk officer: Timothy Sprehe, 395-4814.

Agency: International Trade Administration (ITA).

Title: Exhibitor and Mission Member Report.

Form No.: Agency—ITA-4075P;  
OMB—0625-0034.

Type of request: Extension.

Burden: 3,500 respondents; 583 reporting hours.

Needs and uses: This report is required to provide the necessary data for evaluating the performance of ITA overseas promotional events. The data collected is used to provide feedback for program managers to use in determining the performance of different overseas marketing events and for ITA management by describing the overall performance of overseas promotional programs.

Affected public: Participants or exhibitors in Commerce overseas trade promotional programs.

Frequency: On occasion.

Respondent's obligation: Voluntary.

OMB desk officer: Ken Allen, 395-3785.

Agency: National Oceanic and Atmospheric Administration.

Title: Social and Economic Survey of Fisheries.

Form No.: OMB—0648-0093.

Type of request: Extension.

Burden: 700 respondents; 175 reporting hours.

Needs and uses: Data collected from commercial fishermen are needed to provide the regional Fishery Management councils with information on the financial status of fisheries in the southeastern region. These data are also essential for the economic analyses prescribed by E.O. 12291 requiring regulatory analyses of proposed Federal regulations.

Affected public: Commercial fishermen.

Frequency: Nonrecurring.

Respondent's obligation: Voluntary.

OMB desk officer: Ken Allen, 395-3785.

Copies of the above information collection proposals can be obtained by calling or writing DOC Clearance Officer, Edward Michals (202) 377-4217, Department of Commerce, Room 6622, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

Written comments and recommendations for the proposed information collections should be sent to the respective OMB Desk Officer, Room 3235, New Executive Office Building, Washington, D.C. 20503.

Edward Michals,

Departmental Clearance Officer.

[FR Doc. 83-3368 Filed 2-7-83; 8:45 am]

BILLING CODE 3510-CW-M

## DEPARTMENT OF EDUCATION

### Office of Postsecondary Education

#### Challenge Grant Program; Application Notice for New Awards for Fiscal Year 1983

Applications are invited for new awards under the Challenge Grant Program.

Authority for this program is contained in sections 331-332 and 341-347 of Title III of the Higher Education Act of 1965 as amended.

(20 U.S.C. 1064-1069c)

The Challenge Grant Program assists eligible institutions of higher education to seek alternative sources of funding to become self-sufficient. To this end, the Secretary awards grants to eligible institutions of higher education including, two-year and four-year, public and private institutions, graduate institutions, and institutions providing medical education programs. The institutions must match the grant funds provided by the Secretary.

#### Closing Date for Transmittal of Applications

An application for a grant must be mailed or hand-delivered by March 28, 1983.

#### Applications Delivered by Mail

An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.031C, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

#### Applications Delivered by Hand

An application that is hand-delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building, 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

#### Program Information

Applications for new grants will be accepted from all institutions designated as eligible under the Institutional Aid Programs in Fiscal Year 1983. However, in awarding grants under this part, the Secretary gives preference to applications from institutions that are receiving grants under the Strengthening Program or the Special Needs Program.

In the Second Continuing Resolution for Fiscal Year 1983, Pub. L. 97-377, the Congress appropriated \$129.6 million for the Institutional Aid Programs. Of that amount, \$9.6 million was appropriated for the Challenge Grant Program.

Of the \$9.6 million appropriated for the Challenge Grant Program, the Secretary anticipates that he will use approximately \$8.3 million for noncompeting continuation grants. Thus, approximately \$1.3 million will be available for new awards. The Secretary does not anticipate limiting the maximum grant award.

#### Requests for Designation as an Eligible Institution

Potential applicants must submit a request for designation as an eligible institution by the established date published separately in this issue of the Federal Register.

Those institutions that do not submit a request by the established date or are not designated by the Secretary as eligible to apply for a grant in FY 1983 will not be considered for funding.

#### Application Forms

Application forms and program information packages are expected to be ready for mailing by February 7, 1983. They may be obtained by writing to the Institutional Aid Programs, U.S. Department of Education, L'Enfant Plaza Station, Post Office Box 23868, Washington, D.C. 20024.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms



included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting or grantee performance requirement beyond those imposed under the statute and regulations.

The Secretary strongly urges that: (1) The individual parts of the application not exceed the page limitations identified in the application materials, and (2) applicants not submit information that is not requested.

#### Applicable Regulations

Regulations applicable to this program include the following:

- (a) The regulations in 34 CFR Part 624;
- (b) The regulations in 34 CFR Parts 625 and 626;
- (c) The regulations in 34 CFR Part 627; and
- (d) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77 and 78.

Parts 624, 625, 626 and 627 of Title 34 of the Code of Federal Regulations were published in the *Federal Register* of January 5, 1982, 47 FR 540-557.

#### Further Information

For further information contact Dr. W. A. Butts, Director, Division of Institutional Development, U.S. Department of Education (Room 3060, Regional Office Building 3), 400 Maryland Avenue, SW, Washington, D.C. 20202. Telephone (202) 245-2715.

(Catalog of Federal Domestic Assistance No. 84-031C—Challenge Grant Program)  
(20 U.S.C. 1064-1069c)

Dated: February 2, 1983.

Edward M. Elmendorf,  
*Assistant Secretary for Postsecondary Education.*

[FR Doc. 83-3230 Filed 2-7-83; 8:45 am]  
BILLING CODE 4000-01-M

#### Special Needs Program; Application Notice for New Awards in Fiscal Year 1983

Applications are invited for new planning grants or development grants under the Special Needs Program. Because funds available for this competition are expected to come from funds set aside by the Congress for institutions that have historically served substantial numbers of black students, the Secretary will give funding priority to applications from eligible institutions that have historically served substantial

numbers of black students (historically black institutions.)

Authority for the Special Needs Program is contained in sections 321-324 and 341-347 of Title III of the Higher Education Act of 1965 as amended (HEA).

(20 U.S.C. 1060-1063, and 1066-1069c)

Authority for the funding priority for historically black institutions is contained in section 347(e) of the HEA, 20 U.S.C. 1069c(e).

The Special Needs Program assists eligible institutions of higher education to become self-sufficient by providing funds to improve their academic quality and strengthen their planning, management, and fiscal capabilities. To this end, the Secretary awards planning grants and non-renewable development grants to eligible two-year and four-year, public and private institutions of higher education. The purpose of the planning grants is to assist institutions to develop their long-range plans. The purpose of the development grants is to assist institutions to implement portions of their long-range plans, thereby becoming self-sufficient.

#### Closing Date for Transmittal of Applications

An application for a planning or development grant must be mailed or hand-delivered by March 28, 1983.

#### Application Delivered By Mail

An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.031B, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered.

#### Applications Delivered By Hand

An application that is hand-delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

#### Program Information

In the Second Continuing Resolution for Fiscal Year 1983, Pub. L. 97-377, the Congress appropriated \$129.6 million for the Institutional Aid Programs. Of that amount, \$60 million was appropriated for the Special Needs Program.

Section 347(e) of the HEA requires that \$27,035,000 of the \$60 million appropriated for the Special Needs Program be made available for eligible historically black institutions of higher education. These institutions include the institutions listed in the 1978 publication of the National Center for Education Statistics entitled "Traditionally Black Institutions of Higher Education: Their Identification and Selected Characteristics."

(34 CFR 626.31(b))

The Secretary anticipates using the \$32,965,000 appropriated for the Special Needs Program that is *not* covered by section 347(e) of the HEA for noncompeting continuation grants. The Secretary further anticipates that he will also use approximately \$18 million of the \$27,035,000 set aside for historically black colleges for non-competing continuation grants to such institutions. Thus, approximately \$9 million covered by section 347(e) will be available for funding new awards. Funding priority for new awards will accordingly be given to historically black institutions (34 CFR 626.31(c)(1)).

In accordance with section 347(c)(2) of the HEA, the Secretary intends to award not less than 30 percent of the amount available under the Special Needs Program for both continuation and new grants to eligible junior or community colleges with special needs.

*Grants-General.* In general, the Secretary will accept an application for a planning or a development grant from any institution designated eligible for

the Special Needs Program in Fiscal Year 1983.

In order to ensure a reasonable number of grants for new projects and in accordance with § 626.31(c)(2) of the Special Needs Program Regulations, the Secretary is limiting the maximum award for planning grants to \$25,000 and limiting the maximum award for non-renewable grants to \$800,000 per year. Accordingly, applicants should not submit budget requests in excess of these amounts. The Secretary will not accept any application containing a request in excess of these maximums; such applications will be returned by the application control center.

#### *Planning grants*

1. The Secretary will not accept an application for a planning grant from institutions applying as a cooperative arrangement unless the purpose of the grant is to develop a separate long-range plan for each participating institution.

2. Approval of a planning grant does not commit the Secretary to fund a subsequent application for a development grant.

#### **Requests for Designation as an Eligible Institution**

Potential applicants must submit a request for designation as an eligible institution by the established date published separately in this issue of the *Federal Register*.

Those institutions that do not submit a request by the established date or are not designated by the Secretary as eligible to apply for a grant in FY 1983 will not be considered for funding.

#### **Application Forms**

Application forms and program information packages are expected to be ready for mailing by February 7, 1983. They may be obtained by writing to the Institutional Aid Programs, U.S. Department of Education, L'Enfant Plaza Station, Post Office Box 23868, Washington, D.C. 20024.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations.

The Secretary strongly urges that: (1) The individual parts of the application not exceed the page limitations identified in the application materials,

and (2) applicants not submit information that is not requested.

#### **Applicable Regulations**

Regulations applicable to this program include the following:

- (a) The regulations in 34 CFR Part 624;
- (b) The regulations in 34 CFR Part 626; and
- (c) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, and 78 except that 34 CFR 75.128(a)(2) and 34 CFR 75.129(a) do not apply to cooperative arrangements.

Parts 624 and 626 of Title 34 of the Code of Federal Regulation were published in the *Federal Register* of January 5, 1982, 47 FR 540-557.

#### **Further Information**

For further information contact Dr. W. A. Butts, Director, Division of Institutional Development, U.S. Department of Education (Room 3060, Regional Office Building 3), 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245-2715. (Catalog of Federal Domestic Assistance No. 84.031B—Special Needs Program) (20 U.S.C. 1060-1063 and 1066-1069c)

Dated: February 2, 1983.

Edward M. Elmendorf,  
*Assistant Secretary for Postsecondary Education.*

[FR Doc. 83-3229 Filed 2-7-83; 8:45 am]

BILLING CODE 4000-01-M

#### **Strengthening Program; Application Notice for Planning Grants and Renewable Development Grants**

Applications are invited for new planning grants or renewable development grants under the Strengthening Program.

Authority for this program is contained in sections 311-313 and 341-347 of Title III of the Higher Education Act of 1965, as amended (HEA). (20 U.S.C. 1057-1059, and 1066-1069c)

The strengthening Program assists eligible institutions of higher education to become self-sufficient by providing funds to improve their academic quality and strengthen their planning, management, and fiscal capabilities. To this end, the Secretary awards planning grants and renewable development grants to eligible two-year and four-year, public and private institutions of higher education. The purpose of the planning grants is to assist institutions to develop an institutional long-range plan or an application for a development grant. The purpose of the renewable grants is to assist institutions to implement portions of their long-range

plans to enable them to move toward self-sufficiency.

#### **Closing Date for Transmittal of Applications**

An application for a planning or a renewable development grant must be mailed or hand-delivered by March 28, 1983.

#### **Applications Delivered by Mail**

An application sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: 84.031A, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

- (1) A legibly dated U.S. Postal Service postmark.
- (2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
- (3) A dated shipping label, invoice, or receipt from a commercial carrier.
- (4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

#### **Applications Delivered by Hand**

An application that is hand-delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Eastern Standard time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand-delivered will not be accepted after 4:30 p.m. on the closing date.

#### **Program Information**

In the Second Continuing Resolution for Fiscal Year 1983, Pub. L. 97-377, the Congress appropriated \$129.6 million for the Institutional Aid Programs. Of that amount, \$60 million was appropriated for the Strengthening Program. In

accordance with section 347(c)(1)(A) of the HEA, the Secretary intends to award not less than 24 percent of the total amount available for both non-competing continuation and new grants under the Strengthening Program to eligible junior or community colleges.

Of the \$60 million appropriated for the Strengthening Program, the Secretary is reserving \$5 million for new projects in Fiscal Year 1983. The Secretary will set aside a minimum of \$250,000 for planning grants. If the Secretary does not receive enough qualifying applications for these funds, he will use the remainder of the money for renewable development grants.

(34 CFR 625.31(b)(1)).

In order to ensure a reasonable number of grants for new projects and in accordance with § 625.31(b)(2) of the Strengthening Program regulations, the Secretary is limiting the maximum award for planning grants to \$25,000 and limiting the maximum award for renewable grants to \$200,000 per year. Accordingly, applicants should not submit budget requests in excess of these amounts. The Secretary will not accept any application containing a request in excess of these maximums; such applications will be returned by the application control center.

**General.** The Secretary will accept an application for a planning grant or a renewable development grant from any institution designated as an eligible institution under the Strengthening Program in Fiscal Year 1983. Because of the limitation on 1983 funds available for new projects, the Secretary will not accept applications for non-renewable grants in Fiscal year 1983.

#### *Planning grants*

1. The Secretary will not accept an application for a planning grant solely to develop an application for a development grant unless the applicant submits, as part of its application, its long-range plan containing all the elements required in § 624.22 of the Institutional Aid Programs Regulations (34 CFR 624.22) published in the *Federal Register* of January 5, 1982, 47 FR 540, 543-544.

2. The Secretary will not accept an application for a planning grant to develop a long-range plan from institutions applying as a cooperative arrangement unless the purpose of the grant is to develop a separate longrange plan for each participating institution.

3. Approval of a planning grant does not commit the Secretary to fund a subsequent application for a development grant.

**Development grants.** The Secretary will only accept applications for renewable development grants for Fiscal Year 1983.

#### **Requests for Designation as an Eligible Institution**

Potential applicants must submit a request for designation as an eligible institution by the established date published separately in this issue of the *Federal Register*.

Those institutions that do not submit a request by the established date or are not designated by the Secretary as eligible to apply for a grant in FY 1983 will not be considered for funding.

#### **Application Forms**

Application forms and program information packages are expected to be ready for mailing by February 7, 1983. They may be obtained by writing to the Institutional Aid Programs, U.S. Department of Education, L'Enfant Plaza Station, Post Office Box 23868, Washington, D.C. 20024.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations.

The Secretary strongly urges that: (1) The individual parts of the application not exceed the page limitations identified in the application materials, and (2) applicants not submit information that is not requested.

#### **Applicable Regulations**

Regulations applicable to this program include the following:

- (a) The regulations in 34 CFR Part 624;
- (b) The regulations in 34 CFR Part 625; and

(c) The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77 and 78 except that 34 CFR 75.128(a)(2) and 4 CFR 75.129(a) do not apply to cooperative arrangements.

Parts 624 and 625 of Title 34 of the Code of Federal Regulations were published in the *Federal Register* of January 5, 1982, 47 FR 540-557.

#### **Further Information**

For further information contact Dr. William A. Butts, Director, Division of Institutional Development, U.S. Department of Education, Room 3060,

Regional Office Building 3, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245-2715.

(Catalog of Federal Domestic Assistance No. 84.031A—Strengthening Program)  
(20 U.S.C. 1057-1059, and 1066-1069c)

Dated: February 2, 1983.

Edward M. Elemendorf,

Assistant Secretary for Postsecondary Education.

[FR Doc. 83-3226 Filed 2-7-83; 8:45 am]

BILLING CODE 4000-01(-M)

#### **Strengthening Program, Special Needs Program, and Challenge Grant Program; Application Notice for Non-competing Continuation Awards for Fiscal Year 1983**

Applications are invited for non-competing continuation awards under the Strengthening, special Needs and Challenge Grant Programs. These programs, collectively known as the Institutional Aid Programs, are authorized by Title III of the Higher Education act of 1965, as amended (HEA). In particular, the Strengthening Program is authorized by sections 311-313 and 341-347 of the HEA, 20 U.S.C. 1057-1059, 1066-1069c; the Special Needs Program is authorized by section 31-324 and 341-347 of the HEA, 20 U.S.C. 1060-1063, 1066-1069c; and the Challenge Grant Program is authorized by sections 331-332 and 341-347 of the HEA, 20 U.S.C. 1064-1069c.

Under the Strengthening, Special Needs and Challenge Grant Programs, the secretary awards development grants to eligible institutions of higher education to assist them in carrying out their long-range development plans, thereby assisting them in becoming self-sufficient. Institutions may use the funds awarded under each program to improve their academic quality and to strengthen their planning, management and fiscal capabilities.

#### **Closing Date for Transmittal of Applications**

To be assured of consideration for funding, an application for a non-completing continuation award should be mailed or hand-delivered by April 4, 1983.

If an application for a non-competing continuation award is late, the department may lack sufficient time to review it with other non-competing continuation applications and may decline to accept it.

#### **Applications Delivered by Mail**

An application sent by mail should be addressed to the U.S. Department of

Education, Application control Center, Attention: 84.013A (Institutional Aid Programs-Strengthening); 84.031B (Institutional Aid Programs-Special Needs); 84.031C (Institutional Aid Programs-Challenge), Washington, D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Secretary of Education.

If an application is sent through the U.S. Postal Service, the Secretary does not accept a private metered postmark or a private mail receipt as proof of mailing. An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail.

#### Applications Delivered By Hand

An application that is hand-delivered must be taken to the U.S. Department of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Eastern time) daily except Saturdays, Sundays, and Federal holidays.

#### Program Information

In the Second Continuing Resolution for Fiscal Year 1983, Pub. L. 97-377, the Congress appropriated \$129.6 million for the Institutional Aid Programs. Of that amount, \$60 million was appropriated for the Strengthening Program, \$60 million was appropriated for the Special Needs Program and \$9.6 million for the Challenge Grant Program. The Secretary anticipates that approximately \$55 million will be available to fund noncompeting continuation grants under the Strengthening Program, approximately \$51 million will be available to fund non-competing continuation grants under the Special Needs Program and approximately \$8.3 million will be available to fund non-competing continuation grants under the Challenge Grant Program.

In accordance with section 347(c) of the HEA, the Secretary intends to award

not less than 24 percent of the total amount available under the Strengthening Program, and not less than 30 percent of the total amount available under the Special Needs Program, for both non-competing continuation and new grants to eligible junior or community colleges. In accordance with Section 347(e) of the HEA, the Secretary also intends to make available \$27,035,000 of the \$60 million appropriated for the Special Needs Program for both non-competing continuation and new grants to eligible historically black institutions of higher education. These institutions include the institutions listed in the 1978 publication of the National Center for Education Statistics entitled "Traditionally Black Institutions of Higher Education: Their Identification and Selected Characteristics" (34 CFR 626.31(b)).

In order to ensure that there will be enough money to fund all eligible non-competing continuation grants under the Strengthening and Special Needs Programs and in accordance with § 625.31(b)(2) of the Strengthening Program Regulations, and § 626.31(c)(2) of the Special Needs Program Regulations, 34 CFR 625.31(b)(2) and 626.31(c)(2), respectively, the Secretary anticipates limiting the maximum second-year award for non-renewable grants to \$800,000 and limiting the maximum second-year award for renewable grants to \$200,000. These are the same maximum annual limits that applied to grants made in Fiscal Year 1982. Accordingly, applicants under the Strengthening or Special Needs Programs should not submit budget requests in excess of these amounts. The Secretary will not accept any application containing a request in excess of these maximums. Those applications will be returned. The non-competing continuation grantee may then resubmit a revised application with a budget request that does not exceed the allowable maximum. However, if the revised application is resubmitted later than May 30, 1983, the Department may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

The Secretary does not anticipate limiting the second-year maximum grant award under the Challenge Grant Program.

Although processing of applications will proceed on these estimates, it should be noted that these estimates do not bind the Department of Education to a specific amount of any grant unless that amount is otherwise specified by statute or regulations.

If the total of approved requests for Strengthening Program funds exceeds the amount available, each institution's approved request will be ratably reduced so that the aggregate approved requests equal the amount available—subject to the funding floor for two-year institutions.

If the total of approved requests for Special Needs Program funds exceeds the amount available, each institution's approved request will be ratably reduced so that the aggregate approved requests equal the amount available—subject to the funding floor for two-year institutions and the set-aside for historically black institutions of higher education.

If the total of approved requests for Challenge Grant Program funds exceeds the amount available, each institution's approved request will be ratably reduced so that the aggregate approved requests equal the amount available.

#### Application forms

Application forms for non-competing continuation awards are expected to be ready for mailing no later than February 11, 1983. They will be mailed routinely to currently funded projects. If a grantee does not receive the forms by February 22, 1983, the grantee should telephone the Division of Institutional Development at (202) 245-9091.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. However, the program information is only intended to aid applicants in applying for assistance. Nothing in the program information package is intended to impose any paperwork, application content, reporting, or grantee performance requirement beyond those imposed under the statute and regulations.

The Secretary strongly urges that the narrative portion of the application not exceed eight (8) pages in length per activity narrative. The Secretary further urges that applicants not submit information that is not requested.

#### Applicable Regulations

Regulations applicable to non-competing continuation awards are:

(a) Education Department General Administrative Regulations (EDGAR), 34 CFR Parts 74, 75, 77, and 78; and

(b) Regulations for the Institutional Aid Programs in 34 CFR Parts 624-627 as published in the Federal Register on January 5, 1982, (47 FR 540 *et seq.*).

**Further Information**

For further information contact: Dr. William A. Butts, Director, Division of Institutional Development, U.S. Department of Education, Room 3060, Regional Office Building 3, 400 Maryland Avenue, SW., Washington, D.C. 20202. Telephone: (202) 245-2715, 9091, 2429, or 2384.

(Catalog of Federal Domestic Assistance Number: 84.031A—Strengthening Program, 84.031B Special Needs Program, and 84.031C Challenge Grant Program)  
(20 U.S.C. 1051-1069c)

Dated: February 2, 1983.

Edward M. Elmendorf,  
*Assistant Secretary for Postsecondary Education.*

[FR Doc. 83-3231 Filed 2-7-83; 8:45 am]

BILLING CODE 4000-01-M

**Strengthening Program, Special Needs Program and Challenge Grant Program; Transmittal of Requests for Designation as an Eligible Institution for Fiscal Year 1983**

Institutions of higher education that wish to apply for a grant under the Strengthening Program, the Special Needs Program or the Challenge Grant Program, collectively known as the Institutional Aid Programs, are invited to apply for designation as an "eligible institution" under one or more of those programs by submitting a "Request for Designation as an Eligible Institution" form (ED Form 1049-6). The Institutional Aid Programs are authorized under Section 301-347 of Title III of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1051-1069c)

The Institutional Aid Programs assist eligible institutions to become self-sufficient by providing funds to improve their academic quality and strengthen their planning, management and fiscal capabilities.

To apply for a grant for any of the Institutional Aid Programs, an institution must first be designated as an eligible institution under that program in accordance with the applicable regulations.

**Closing Date for Transmittal of Requests**

A "Request for Designation as an Eligible Institution" form must be mailed or hand delivered by March 28, 1983.

**Requests Delivered by Mail**

A request sent by mail must be addressed to the Evaluation Section, Division of Institutional Development, L'Enfant Plaza, Post Office Box 23868, Washington, D.C. 20024.

Proof of mailing must consist of one of the following:

1. A legibly dated U.S. Postal Service postmark.
2. A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.
3. A dated shipping label, invoice, or receipt from a commercial carrier.
4. Any other proof of mailing acceptable to the U.S. Secretary of Education.

If a request is sent through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its request will not be considered.

**Request Delivered by Hand**

A request that is hand-delivered must be taken to the Evaluation Section, Division of Institutional Development, Room 3045, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C. Hand-delivered requests must be received by the staff of the Evaluation Section.

The staff of the Evaluation Section will accept and receipt hand-delivered requests between 9:00 a.m. and 4:30 p.m. (Eastern Time) daily, except Saturdays, Sundays and Federal holidays.

A request that is hand-delivered will not be accepted after 4:30 p.m. on March 28, 1983.

**Request Forms**

Eligibility request forms (ED Form 1049-6) are expected to be ready for mailing by January 26, 1983. They may be obtained by writing to the Evaluation Section, Division of Institutional Development, L'Enfant Plaza, Post Office Box 23868, Washington, D.C. 20024 or by calling (202) 245-2338.

**Applicable Regulations**

Regulations applicable to the eligibility process include §§ 624.2, 624.3 and 624.20 of the Institutional Aid Programs General Provisions Regulations, 34 CFR 624.2, 624.3 and 624.20; §§ 625.2 and 625.3 of the Strengthening Program Regulations, 34 CFR 625.2 and 625.3; §§ 626.2 and 626.3 of the Special Needs Program Regulations, 34 CFR 626.2 and 626.3; and § 627.2 of the Challenge Grant Program Regulations, 34 CFR 627.2. These

regulations were published in the **Federal Register** of January 5, 1982, 47 FR 540-557.

**Program Information**

The Secretary will use award year 1980-81 (July 1, 1980-June 30, 1981) as the base year for calculating an institution's eligibility under § 625.2(a)(2), (3) and (4) of the Strengthening Program, § 626.2(a)(2), (3) and (4) of the Special Needs Program, and § 627.2(d)(2) of the Challenge Grant Program.

Institutions must submit E&G expenditure data for the 12-month period on which they reported in the "Higher Education General Information Survey (HEGIS XVI), Financial Statistics of Institutions of Higher Education for Fiscal Year Ending 1981."

The Department of Education will use Pell Grant data currently on file in the Department in making its determinations under the financial aid eligibility criteria in 34 CFR 625.2 and 626.2. The Department will use the data corrected and updated as of March 29, 1983.

Conversion tables which explain how the Secretary assigns points to institutions applying for eligibility designation are published as an appendix to this Notice.

Under the Challenge Grant Program Regulations, § 627.2(e), the Secretary is authorized to waive requirements set forth in § 624.2(b)(2) of the Institutional Aid Programs—General Provisions. In Fiscal Year 1983, the Secretary chooses not to waive these requirements.

Institutions are urged to submit the form titled "Request for Designation as an Eligible Institution—ED Form 1049-6" (Request Form) well in advance of the March 28, 1983 closing date. The Secretary permits no new information or adjustments to the information submitted on the Request Form after the March 28, 1983 closing date. However, amendments to the Request Form will be accepted if those amendments are submitted before that date.

If an institution submits its Request Form early (before February 25, 1983), the Division of Institutional Development will make every effort to review the submission and notify the institution of its eligibility status before the March 28, 1983 closing date, to give institutions an opportunity to make technical amendments as appropriate. However, because of the expected volume of Request Forms that the Division of Institutional Development may receive, it is unlikely that the Division will be able to process the Request Forms received after February 25, 1983 and inform the institution of its

eligibility status prior to the March 28, 1983 closing date.

In addition, even for Request Forms received before February 25, 1983, there is likely to be some delay in notifying institutions of their eligibility status if they request a waiver of certain eligibility requirements, if they request special designation status under Part II of the Request Form, or if they wish to reconcile the Pell Grant data they submitted with data contained in the Office of Student Financial Assistance files. In all cases, Request Forms will be processed in the order they are received and all institutions will be notified about their eligibility status as soon as possible.

*An institution that does not submit a complete eligibility form by March 28, 1983 will not be eligible to apply for an Institutional Aid Program grant under this competition.*

#### Further Information

For further information, contact the Evaluation Section, Division of Institutional Development, L'Enfant

Plaza, Post Office Box 23868,  
Washington, D.C. 20024. Telephone (202)  
245-2338.

(Catalog of Federal Domestic Assistance  
Number: 84.031 Institutional Aid Programs)  
(20 U.S.C. 1051-1069c)

Dated: February 2, 1983.

**T. H. Bell,**  
*Secretary of Education.*

#### FISCAL YEAR 1983 COMPETITION—NATIONAL STANDARDS FOR DETERMINING INSTITUTION- AL ELIGIBILITY FOR THE TITLE III INSTITUTION- AL AID PROGRAMS

[Threshold chart]

Categories of potentially eligible institutions	Minimum thresholds			
	Strengthening program		Special needs program	
	Overall threshold	Waiver threshold	Overall threshold	Waiver threshold
2-year public institutions.....	147	98	92	46
2-year non- profit private institutions.....	144	96	103	52

#### FISCAL YEAR 1983 COMPETITION—NATIONAL STANDARDS FOR DETERMINING INSTITUTION- AL ELIGIBILITY FOR THE TITLE III INSTITUTION- AL AID PROGRAMS—Continued

[Threshold chart]

Categories of potentially eligible institutions	Minimum thresholds			
	Strengthening program		Special needs program	
	Overall threshold	Waiver threshold	Overall threshold	Waiver threshold
4-year public institutions.....	187	125	127	64
4-year non- profit private institutions.....	188	125	130	65
Graduate Public Institutions <sup>1</sup>				26
Graduate Non-profit Private Institutions <sup>1</sup>				76

<sup>1</sup>Institutions that do not award bachelor's degrees but do award graduate, postgraduate or professional degrees may request designation for the Challenge Grant Program under the eligibility criteria for the Special Needs Program.

BILLING CODE 4000-01-M

## PART A : CONTINUE

The Secretary of Education uses the following tables to determine Title III Institutional Eligibility for FY 1983 (based on the 1980 - 1981 data):

## POINT TABLES

## PART A : STRENGTHENING

## 2 YR PUBLIC

POINT	PELL PERCENT	PELL DOLLAR	E AND G
1	0.0001 - 0.0519	0.01 - 360.70	9991.00+
2	0.0520 - 0.0755	360.71 - 411.21	9990.99 - 7560.27
3	0.0756 - 0.0988	411.22 - 436.16	7560.26 - 6962.13
4	0.0989 - 0.1101	436.17 - 441.30	6962.12 - 6723.95
5	0.1102 - 0.1162	441.31 - 450.25	6723.94 - 6330.88
6	0.1163 - 0.1253	450.26 - 461.35	6330.87 - 6107.59
7	0.1254 - 0.1363	461.36 - 468.59	6107.58 - 5724.97
8	0.1364 - 0.1401	468.60 - 476.13	5724.96 - 5626.63
9	0.1402 - 0.1459	476.14 - 481.55	5626.62 - 5389.52
10	0.1460 - 0.1511	481.56 - 486.89	5389.51 - 5323.37
11	0.1512 - 0.1544	486.90 - 496.62	5323.36 - 5212.04
12	0.1545 - 0.1614	496.63 - 501.52	5212.03 - 5094.82
13	0.1615 - 0.1692	501.53 - 504.47	5094.81 - 5012.22
14	0.1693 - 0.1758	504.48 - 508.88	5012.21 - 4859.79
15	0.1759 - 0.1806	508.89 - 513.03	4859.78 - 4748.26
16	0.1807 - 0.1843	513.04 - 515.05	4748.25 - 4669.32
17	0.1844 - 0.1901	515.06 - 517.03	4669.31 - 4516.63
18	0.1902 - 0.1937	517.04 - 521.25	4516.62 - 4482.96
19	0.1938 - 0.2002	521.26 - 524.25	4482.95 - 4399.75
20	0.2003 - 0.2136	524.26 - 527.39	4399.74 - 4375.73
21	0.2137 - 0.2175	527.40 - 531.61	4375.72 - 4298.54
22	0.2176 - 0.2240	531.62 - 534.41	4298.53 - 4268.53
23	0.2241 - 0.2311	534.42 - 536.92	4268.52 - 4206.19
24	0.2312 - 0.2346	536.93 - 540.75	4206.18 - 4164.66
25	0.2347 - 0.2419	540.76 - 543.67	4164.65 - 4125.46
26	0.2420 - 0.2480	543.68 - 548.58	4125.45 - 4087.53
27	0.2481 - 0.2509	548.59 - 552.15	4087.52 - 4044.32
28	0.2510 - 0.2556	552.16 - 555.52	4044.31 - 3992.06
29	0.2557 - 0.2611	555.53 - 558.51	3992.07 - 3958.04
30	0.2612 - 0.2679	558.52 - 562.29	3958.03 - 3914.14
31	0.2680 - 0.2729	562.30 - 563.99	3914.13 - 3866.34
32	0.2730 - 0.2762	564.00 - 566.25	3866.33 - 3850.34
33	0.2763 - 0.2813	566.26 - 571.83	3850.33 - 3794.41
34	0.2814 - 0.2843	571.84 - 573.47	3794.40 - 3776.72
35	0.2844 - 0.2873	573.48 - 575.96	3776.71 - 3728.03
36	0.2874 - 0.2905	575.97 - 576.67	3728.02 - 3692.77
37	0.2906 - 0.2947	576.68 - 578.84	3692.76 - 3667.59
38	0.2948 - 0.3001	578.85 - 581.55	3667.58 - 3610.36
39	0.3002 - 0.3019	581.56 - 585.99	3610.35 - 3591.95
40	0.3020 - 0.3099	586.00 - 588.34	3591.94 - 3503.33
41	0.3100 - 0.3172	588.35 - 590.80	3503.32 - 3476.25
42	0.3173 - 0.3204	590.81 - 594.59	3476.24 - 3450.00
43	0.3205 - 0.3222	594.60 - 597.11	3453.99 - 3426.19
44	0.3223 - 0.3254	597.12 - 598.14	3426.18 - 3403.60
45	0.3255 - 0.3314	598.15 - 600.40	3403.59 - 3377.33
46	0.3315 - 0.3366	600.41 - 602.29	3377.32 - 3359.26
47	0.3367 - 0.3418	602.30 - 605.63	3359.25 - 3329.16
48	0.3419 - 0.3438	605.64 - 606.77	3329.15 - 3305.41
49	0.3439 - 0.3460	606.78 - 610.19	3305.40 - 3280.45

## E AND G

## PELL DOLLAR

## PELL PERCENT

## POINT

51	0.3461 - 0.3507	610.20 - 614.05	3280.44 - 3248.17
52	0.3508 - 0.3549	614.06 - 615.89	3248.16 - 3199.55
53	0.3550 - 0.3584	615.90 - 618.11	3199.54 - 3199.76
54	0.3585 - 0.3607	618.12 - 619.91	3199.75 - 3186.75
55	0.3608 - 0.3631	619.92 - 623.06	3186.74 - 3168.26
56	0.3632 - 0.3669	623.07 - 626.09	3168.25 - 3142.28
57	0.3670 - 0.3740	626.10 - 628.70	3142.27 - 3116.59
58	0.3741 - 0.3809	628.71 - 631.36	3116.58 - 3093.82
59	0.3810 - 0.3864	631.37 - 634.04	3093.81 - 3070.66
60	0.3865 - 0.3950	634.05 - 637.78	3070.65 - 3045.91
61	0.3951 - 0.4002	637.79 - 640.19	3045.90 - 3026.91
62	0.4003 - 0.4111	640.20 - 644.17	3026.90 - 3001.81
63	0.4112 - 0.4177	644.18 - 648.45	3001.80 - 2971.63
64	0.4178 - 0.4225	648.46 - 652.71	2971.62 - 2944.64
65	0.4226 - 0.4294	652.72 - 657.68	2944.63 - 2922.57
66	0.4295 - 0.4364	657.69 - 661.17	2922.56 - 2901.29
67	0.4365 - 0.4418	661.18 - 665.72	2901.28 - 2863.16
68	0.4419 - 0.4477	665.73 - 670.38	2863.15 - 2843.61
69	0.4478 - 0.4504	670.39 - 674.19	2843.60 - 2826.03
70	0.4505 - 0.4553	674.20 - 678.90	2826.02 - 2790.48
71	0.4554 - 0.4607	678.91 - 683.03	2790.47 - 2758.16
72	0.4608 - 0.4687	683.04 - 688.07	2758.15 - 2734.44
73	0.4688 - 0.4742	688.08 - 693.54	2734.43 - 2708.92
74	0.4743 - 0.4823	693.55 - 699.78	2708.91 - 2693.91
75	0.4824 - 0.4887	699.79 - 701.40	2693.90 - 2685.17
76	0.4888 - 0.4985	701.41 - 705.55	2685.16 - 2663.88
77	0.4986 - 0.5065	705.56 - 710.65	2663.87 - 2648.36
78	0.5066 - 0.5111	710.66 - 717.74	2648.35 - 2623.84
79	0.5112 - 0.5154	717.75 - 724.53	2623.83 - 2581.64
80	0.5155 - 0.5233	724.54 - 730.55	2581.63 - 2558.39
81	0.5234 - 0.5284	730.56 - 735.57	2558.38 - 2528.05
82	0.5285 - 0.5355	735.58 - 741.07	2528.04 - 2494.88
83	0.5356 - 0.5462	741.08 - 745.11	2494.87 - 2477.04
84	0.5463 - 0.5621	745.12 - 751.63	2477.03 - 2451.32
85	0.5622 - 0.5667	751.64 - 758.09	2451.31 - 2438.25
86	0.5668 - 0.5707	758.10 - 765.23	2438.24 - 2416.30
87	0.5708 - 0.5798	765.24 - 771.53	2416.29 - 2396.77
88	0.5799 - 0.5833	771.54 - 777.42	2396.76 - 2372.14
89	0.5834 - 0.5862	777.43 - 787.48	2372.13 - 2335.90
90	0.5863 - 0.5910	787.49 - 798.72	2335.89 - 2308.62
91	0.5911 - 0.5961	798.73 - 810.62	2308.61 - 2279.32
92	0.5962 - 0.6010	810.63 - 840.73	2279.31 - 2222.72
93	0.6011 - 0.6071	840.74 - 861.17	2222.71 - 2201.47
94	0.6072 - 0.6133	861.18 - 881.61	2201.46 - 2136.87
95	0.6134 - 0.6199	881.62 - 901.73	2136.86 - 2080.25
96	0.6200 - 0.6271	901.74 - 921.85	2080.24 - 2033.77
97	0.6272 - 0.6343	921.86 - 941.97	2033.76 - 1975.39
98	0.6344 - 0.6415	941.98 - 961.99	1975.38 - 1914.39
99	0.6416 - 0.6487	961.99 - 981.99	1914.38 - 1760.97
100	0.6488 - 0.6559	981.99 - 1000.00	1760.96 - 1.00



## PART-B : SPECIAL NEEDS

## 2 YR PUBLIC

POINT	NEED PERCENT	NEED DOLLAR	E AND G	POINT	PELL PERCENT	PELL DOLLAR	E AND G
1	0.0001 - 0.0489	0.01 - 422.72	7560.27+	1	0.0001 - 0.0958	0.01 - 573.22	21390.55+
2	0.0490 - 0.0695	422.73 - 473.22	7560.26 - 8723.95	2	0.0959 - 0.1438	573.23 - 623.51	21390.54 - 13658.04
3	0.0696 - 0.0775	473.23 - 492.32	8723.96 - 10107.29	3	0.1439 - 0.1723	623.52 - 637.94	13658.03 - 11939.92
4	0.0776 - 0.0894	492.33 - 508.80	10107.30 - 5626.63	4	0.1724 - 0.1885	637.95 - 654.85	11939.91 - 9790.20
5	0.0895 - 0.0987	508.81 - 523.17	5626.64 - 5323.37	5	0.1886 - 0.2149	654.86 - 671.35	9790.19 - 8745.05
6	0.0988 - 0.1041	523.18 - 538.45	5323.38 - 5094.02	6	0.2150 - 0.2172	671.36 - 712.46	8745.04 - 8295.82
7	0.1042 - 0.1099	538.46 - 547.55	5094.03 - 4859.79	7	0.2173 - 0.2230	712.47 - 736.99	8295.81 - 7648.13
8	0.1100 - 0.1170	547.56 - 553.18	4859.80 - 4569.32	8	0.2231 - 0.2369	737.00 - 758.99	7648.12 - 7409.05
9	0.1171 - 0.1227	553.19 - 562.59	4569.33 - 4399.75	9	0.2370 - 0.2424	759.00 - 790.61	7409.04 - 7287.55
10	0.1228 - 0.1317	562.60 - 571.71	4399.76 - 4298.10	10	0.2425 - 0.2586	790.62 - 793.38	7287.54 - 6922.82
11	0.1318 - 0.1380	571.72 - 577.46	4298.11 - 4208.09	11	0.2587 - 0.2686	793.39 - 797.01	6922.81 - 6726.90
12	0.1381 - 0.1445	577.47 - 584.21	4208.10 - 4125.46	12	0.2687 - 0.2725	797.02 - 800.13	6726.89 - 6609.96
13	0.1446 - 0.1530	584.22 - 589.67	4125.47 - 4044.31	13	0.2726 - 0.2841	800.14 - 806.80	6609.95 - 6461.76
14	0.1531 - 0.1582	589.68 - 594.59	4044.32 - 3958.04	14	0.2842 - 0.2885	806.81 - 820.59	6461.75 - 5994.91
15	0.1583 - 0.1654	594.60 - 599.97	3958.05 - 3866.34	15	0.2886 - 0.3014	820.60 - 831.81	5994.90 - 5842.63
16	0.1655 - 0.1704	599.98 - 605.33	3866.35 - 3794.41	16	0.3015 - 0.3061	831.82 - 844.37	5842.62 - 5511.01
17	0.1705 - 0.1782	605.34 - 612.41	3794.42 - 3726.02	17	0.3062 - 0.3106	844.38 - 851.51	5511.00 - 5459.23
18	0.1783 - 0.1851	612.42 - 617.81	3726.03 - 3667.56	18	0.3107 - 0.3170	851.52 - 854.46	5459.22 - 5320.80
19	0.1852 - 0.1911	617.82 - 625.40	3667.57 - 3591.95	19	0.3171 - 0.3247	854.47 - 859.67	5320.79 - 5153.57
20	0.1912 - 0.1948	625.41 - 627.76	3591.96 - 3526.19	20	0.3248 - 0.3303	859.68 - 864.37	5153.56 - 5007.82
21	0.1949 - 0.1988	627.77 - 632.33	3526.20 - 3476.24	21	0.3304 - 0.3340	864.38 - 868.64	5007.81 - 4924.01
22	0.1989 - 0.2036	632.34 - 639.28	3476.25 - 3426.18	22	0.3341 - 0.3357	868.65 - 871.24	4924.00 - 4762.98
23	0.2037 - 0.2092	639.29 - 644.24	3426.19 - 3377.33	23	0.3358 - 0.3391	871.25 - 878.69	4762.97 - 4634.39
24	0.2093 - 0.2124	644.25 - 648.33	3377.34 - 3329.16	24	0.3392 - 0.3450	878.70 - 881.61	4634.38 - 4571.25
25	0.2125 - 0.2164	648.34 - 651.57	3329.17 - 3280.44	25	0.3451 - 0.3571	881.62 - 884.05	4571.24 - 4437.55
26	0.2165 - 0.2220	651.58 - 657.12	3280.45 - 3219.54	26	0.3572 - 0.3671	884.06 - 887.45	4437.54 - 4316.07
27	0.2221 - 0.2262	657.13 - 662.98	3219.55 - 3166.74	27	0.3672 - 0.3772	887.46 - 890.51	4316.06 - 4161.16
28	0.2263 - 0.2310	662.99 - 667.97	3166.75 - 3142.27	28	0.3773 - 0.3842	890.52 - 895.39	4161.15 - 4039.93
29	0.2311 - 0.2379	667.98 - 674.92	3142.28 - 3093.81	29	0.3843 - 0.3901	895.40 - 900.83	4039.92 - 4010.24
30	0.2380 - 0.2443	674.93 - 682.09	3093.82 - 3045.47	30	0.3902 - 0.4035	900.84 - 903.45	4010.23 - 3928.18
31	0.2444 - 0.2542	682.10 - 688.33	3045.48 - 3001.81	31	0.4036 - 0.4065	903.46 - 908.18	3928.17 - 3854.20
32	0.2543 - 0.2589	688.34 - 694.29	3001.82 - 2944.64	32	0.4066 - 0.4109	908.19 - 909.23	3854.19 - 3817.67
33	0.2590 - 0.2648	694.30 - 700.66	2944.65 - 2901.29	33	0.4110 - 0.4145	909.24 - 910.35	3817.66 - 3799.09
34	0.2649 - 0.2795	700.67 - 705.86	2901.30 - 2843.61	34	0.4146 - 0.4182	910.36 - 912.57	3799.08 - 3730.93
35	0.2796 - 0.2866	705.87 - 710.64	2843.62 - 2790.48	35	0.4183 - 0.4285	912.58 - 925.48	3730.92 - 3661.48
36	0.2867 - 0.2954	710.65 - 717.84	2790.49 - 2734.44	36	0.4286 - 0.4341	925.49 - 928.29	3661.47 - 3624.82
37	0.2955 - 0.3052	717.85 - 722.85	2734.45 - 2693.91	37	0.4342 - 0.4408	928.30 - 935.88	3624.81 - 3599.08
38	0.3053 - 0.3149	722.86 - 727.78	2693.92 - 2658.38	38	0.4409 - 0.4436	935.89 - 940.59	3599.07 - 3550.41
39	0.3150 - 0.3268	727.79 - 736.85	2658.39 - 2613.87	39	0.4437 - 0.4519	940.60 - 943.62	3550.40 - 3464.64
40	0.3269 - 0.3394	736.86 - 745.21	2613.88 - 2558.38	40	0.4520 - 0.4528	943.63 - 946.70	3464.63 - 3453.75
41	0.3395 - 0.3509	745.22 - 756.43	2558.39 - 2494.87	41	0.4529 - 0.4649	946.71 - 951.02	3453.74 - 3413.86
42	0.3510 - 0.3614	756.44 - 763.30	2494.88 - 2451.32	42	0.4650 - 0.4728	951.03 - 952.55	3413.85 - 3399.30
43	0.3615 - 0.3838	763.31 - 775.80	2451.33 - 2416.29	43	0.4729 - 0.4815	952.56 - 954.43	3399.29 - 3273.57
44	0.3839 - 0.4020	775.81 - 793.57	2416.30 - 2372.13	44	0.4816 - 0.4899	954.44 - 959.16	3273.56 - 3263.96
45	0.4021 - 0.4220	793.58 - 806.60	2372.14 - 2308.62	45	0.4900 - 0.4946	959.17 - 962.61	3263.95 - 3237.58
46	0.4221 - 0.4491	806.61 - 821.12	2308.63 - 2222.71	46	0.4947 - 0.5068	962.62 - 970.12	3237.57 - 3189.24
47	0.4492 - 0.4891	821.13 - 847.78	2222.72 - 2136.86	47	0.5069 - 0.5125	970.13 - 971.07	3189.23 - 3159.22
48	0.4892 - 0.5344	847.79 - 875.82	2136.87 - 2033.77	48	0.5126 - 0.5296	971.08 - 971.07	
49	0.5345 - 0.6421	875.83 - 954.44	2033.78 - 1914.39	49	0.5297 - 0.5358		
50	0.6422+	954.45+	1914.40 - 1.00	50			

## PART-A : STRENGTHENING

## 2 YR PRIVATE

## PART-A : CONTINUE

## 2 YR PRIVATE

POINT	PELL PERCENT	PELL DOLLAR	E AND G	POINT	NEED PERCENT	NEED DOLLAR	E AND G
51	0.5359	971.08	3139.21	1	0.0001	0.01	13858.04
52	0.5408	975.35	3125.78	2	0.0845	597.45	13858.03
53	0.5530	976.75	3105.30	3	0.1280	635.27	9790.19
54	0.5549	978.07	3074.30	4	0.1443	669.37	8295.82
55	0.5577	980.56	3069.29	5	0.1563	688.24	8295.80
56	0.5643	984.39	3027.28	6	0.1734	712.99	7409.05
57	0.5690	989.76	2983.22	7	0.1786	725.99	6922.82
58	0.5873	990.82	2951.64	8	0.1955	758.04	6609.96
59	0.5924	995.42	2928.63	9	0.2063	768.05	5994.91
60	0.6011	999.43	2888.02	10	0.2160	769.19	5511.01
61	0.6089	1000.80	2746.89	11	0.2245	778.65	5320.80
62	0.6168	1001.77	2741.11	12	0.2298	786.85	5007.98
63	0.6387	1003.82	2715.39	13	0.2425	800.14	4762.98
64	0.6517	1005.76	2685.01	14	0.2493	813.85	4571.24
65	0.6632	1008.94	2645.00	15	0.2667	820.85	4437.54
66	0.6820	1012.58	2583.79	16	0.2788	830.17	4379.29
67	0.6871	1018.84	2558.16	17	0.2906	845.05	4161.14
68	0.7081	1019.81	2499.16	18	0.2946	854.06	4010.23
69	0.7150	1024.56	2475.69	19	0.3005	854.07	3854.19
70	0.7206	1026.41	2441.92	20	0.3111	868.13	3799.08
71	0.7246	1034.13	2431.70	21	0.3252	872.44	3661.48
72	0.7374	1036.25	2361.70	22	0.3433	882.90	3599.08
73	0.7610	1039.74	2328.62	23	0.3514	890.64	3464.64
74	0.7736	1039.75	2300.83	24	0.3655	893.77	3413.86
75	0.7788	1045.67	2254.69	25	0.3834	903.08	3273.57
76	0.8022	1049.05	2225.74	26	0.3856	909.64	3237.58
77	0.8208	1064.95	2186.67	27	0.4022	916.43	3139.21
78	0.8444	1069.95	2151.68	28	0.4077	927.64	3105.30
79	0.8659	1073.90	2113.75	29	0.4147	934.23	3069.29
80	0.8737	1073.91	2044.81	30	0.4271	946.22	2983.23
81	0.8983	1095.05	2012.69	31	0.4417	951.44	2928.62
82	0.9144	1103.64	1996.86	32	0.4572	954.95	2746.89
83	0.9216	1113.60	1969.32	33	0.4833	963.01	2715.40
84	0.9227	1116.17	1930.47	34	0.5000	969.22	2583.80
85	0.9375	1121.04	1923.89	35	0.5090	976.90	2525.54
86	0.9626	1129.48	1888.53	36	0.5311	986.03	2475.69
87	0.9695	1133.47	1835.96	37	0.5451	994.91	2361.70
88	0.9973	1136.28	1824.81	38	0.5654	1005.76	2300.83
89	1.0175	1142.05	1721.53	39	0.5836	1019.48	2225.73
90	1.0398	1149.55	1681.23	40	0.6254	1026.77	2151.68
91	1.0788	1154.62	1654.55	41	0.6255	1034.67	2044.81
92	1.1040	1160.01	1563.46	42	0.6669	1077.28	1996.86
93	1.1960	1172.21	1535.22	43	0.7425	1111.90	1930.47
94	1.3004	1182.00	1424.62	44	0.7621	1129.47	1888.53
95	1.4147	1192.83	1243.14	45	0.8409	1148.45	1824.81
96	1.5641	1220.14	1243.13	46	0.8991	1161.15	1681.23
97	1.6406	1231.00	1126.14	47	0.9677	1182.00	1563.46
98	1.6500	1243.24	1024.84	48	1.0147	1230.28	1502.39
99	1.6500	1315.88	978.14	49	1.2773	1308.46	1243.14
100	1.6500	1326.88	929.71	50	1.6500	1342.62	1024.84
			756.77				929.71

## PART-B : SPECIAL NEEDS

## 2 YR PRIVATE

POINT	NEED PERCENT	NEED DOLLAR	E AND G
1	0.0001	0.01	13858.04
2	0.0845	597.45	13858.03
3	0.1280	635.27	9790.19
4	0.1443	669.37	8295.82
5	0.1563	688.24	8295.80
6	0.1734	712.99	7409.05
7	0.1786	725.99	6922.82
8	0.1955	758.04	6609.96
9	0.2063	768.05	5994.91
10	0.2160	769.19	5511.01
11	0.2245	778.65	5320.80
12	0.2298	786.85	5007.98
13	0.2425	800.14	4762.98
14	0.2493	813.85	4571.24
15	0.2667	820.85	4437.54
16	0.2788	830.17	4379.29
17	0.2906	845.05	4161.14
18	0.2946	854.06	4010.23
19	0.3005	854.07	3854.19
20	0.3111	868.13	3799.08
21	0.3252	872.44	3661.48
22	0.3433	882.90	3599.08
23	0.3514	890.64	3464.64
24	0.3655	893.77	3413.86
25	0.3834	903.08	3273.57
26	0.3856	909.64	3237.58
27	0.4022	916.43	3139.21
28	0.4077	927.64	3105.30
29	0.4147	934.23	3069.29
30	0.4271	946.22	2983.23
31	0.4417	951.44	2928.62
32	0.4572	954.95	2746.89
33	0.4833	963.01	2715.40
34	0.5000	969.22	2583.80
35	0.5090	976.90	2525.54
36	0.5311	986.03	2475.69
37	0.5451	994.91	2361.70
38	0.5654	1005.76	2300.83
39	0.5836	1019.48	2225.73
40	0.6254	1026.77	2151.68
41	0.6255	1034.67	2044.81
42	0.6669	1077.28	1996.86
43	0.7425	1111.90	1930.47
44	0.7621	1129.47	1888.53
45	0.8409	1148.45	1824.81
46	0.8991	1161.15	1681.23
47	0.9677	1182.00	1563.46
48	1.0147	1230.28	1502.39
49	1.2773	1308.46	1243.14
50	1.6500	1342.62	1024.84
			929.71

## PART-A : CONTINUE

## 4 YR PUBLIC

POINT	PELL PERCENT	PELL DOLLAR	E AND G
51	0.3242	839.14	3944.53
52	0.3268	840.54	3919.93
53	0.3277	841.82	3889.86
54	0.3331	843.84	3850.68
55	0.3356	845.04	3811.81
56	0.3396	845.78	3781.40
57	0.3434	848.36	3754.77
58	0.3470	850.14	3711.99
59	0.3519	853.62	3674.76
60	0.3559	854.98	3595.20
61	0.3581	856.85	3557.16
62	0.3611	860.92	3543.71
63	0.3623	863.99	3510.02
64	0.3641	863.90	3488.13
65	0.3677	868.91	3448.12
66	0.3701	870.79	3422.19
67	0.3782	876.24	3404.81
68	0.3821	881.47	3380.17
69	0.3912	883.26	3360.48
70	0.3996	884.29	3324.09
71	0.4043	886.40	3299.57
72	0.4083	889.66	3284.62
73	0.4110	890.76	3256.52
74	0.4213	891.80	3184.55
75	0.4271	892.65	3159.90
76	0.4340	896.93	3144.00
77	0.4403	900.48	3107.79
78	0.4470	904.25	3073.78
79	0.4591	907.22	3062.15
80	0.4591	911.66	3023.41
81	0.4700	914.85	3014.77
82	0.4916	919.81	2973.07
83	0.4972	921.68	2959.61
84	0.5099	925.78	2945.89
85	0.5176	925.78	2916.41
86	0.5294	935.24	2883.19
87	0.5495	938.15	2861.50
88	0.5624	949.49	2853.58
89	0.5730	956.67	2819.26
90	0.5804	959.35	2739.03
91	0.6138	968.40	2728.94
92	0.6503	968.92	2664.42
93	0.6834	968.92	2631.47
94	0.7785	977.57	2572.98
95	0.7912	1002.01	2572.98
96	0.7912	1012.32	2476.20
97	0.8321	1035.09	2449.72
98	0.8607	1056.02	2410.78
99	0.8781	1072.60	2347.87
100	0.9034	1098.75	2314.44
	0.9034	1167.42	2273.25
			2188.46
			2134.17
			1973.19
			1.00

## PART-A : STRENGTHENING

## 4 YR PUBLIC

POINT	PELL PERCENT	PELL DOLLAR	E AND G
1	0.0001	0.01	2219.88
2	0.1140	573.38	2219.87
3	0.1333	617.91	1800.82
4	0.1521	631.12	1507.00
5	0.1550	641.45	1507.09
6	0.1671	646.28	11645.29
7	0.1726	646.28	10423.44
8	0.1843	660.94	10423.43
9	0.1858	660.94	9921.57
10	0.1919	673.51	9921.56
11	0.1964	680.58	8918.64
12	0.2009	689.25	8146.41
13	0.2064	693.84	8146.39
14	0.2100	693.84	7843.06
15	0.2207	700.64	7536.62
16	0.2227	700.64	7350.50
17	0.2306	713.21	7068.46
18	0.2327	713.21	6826.29
19	0.2341	721.81	6547.97
20	0.2406	721.81	6547.96
21	0.2443	728.85	6250.54
22	0.2464	732.69	6112.91
23	0.2519	736.96	6005.95
24	0.2575	742.62	6005.04
25	0.2605	742.62	5918.32
26	0.2694	742.62	5822.14
27	0.2728	747.37	5796.13
28	0.2784	751.65	5681.07
29	0.2840	758.25	5573.33
30	0.2860	758.25	5433.62
31	0.2924	764.80	5272.98
32	0.2944	767.44	5227.31
33	0.2964	770.19	5227.30
34	0.2984	774.28	5087.67
35	0.2984	774.28	4983.79
36	0.3004	779.63	4983.78
37	0.3024	783.15	4964.76
38	0.3044	783.15	4964.75
39	0.3064	791.17	4862.77
40	0.3084	792.69	4823.03
41	0.3104	792.69	4762.16
42	0.3124	794.33	4687.65
43	0.3144	796.90	4687.64
44	0.3164	800.27	4628.14
45	0.3184	802.13	4568.04
46	0.3204	803.69	4503.24
47	0.3224	805.67	4469.99
48	0.3244	805.67	4407.46
49	0.3264	808.50	4371.86
50	0.3284	811.61	4338.74
51	0.3304	815.29	4305.27
52	0.3324	815.29	4263.28
53	0.3344	817.24	4209.54
54	0.3364	821.37	4209.54
55	0.3384	825.07	4180.98
56	0.3404	827.10	4144.75
57	0.3424	827.10	4090.86
58	0.3444	828.35	4058.36
59	0.3464	831.44	4058.35
60	0.3484	834.00	4031.65
61	0.3504	836.62	4006.59
62	0.3524	836.62	3944.34

## PART-B : SPECIAL NEEDS

## 4 YR PUBLIC

POINT	NEED PERCENT	NEED DOLLAR	E AND G	POINT	PULL PERCENT	PULL DOLLAR	E AND G
1	0.0001 - 0.0096	0.01 - 667.95	18000.63	1	0.0001 - 0.0064	0.01 - 695.61	20062.09
2	0.0097 - 0.0136	667.96 - 709.21	18000.62 - 11645.29	2	0.0665 - 0.1059	695.62 - 789.26	20062.08 - 14952.07
3	0.1137 - 0.1248	709.22 - 723.25	11645.28 - 9921.37	3	0.1060 - 0.1205	789.27 - 820.26	14952.05 - 12258.44
4	0.1249 - 0.1364	723.26 - 735.74	9921.36 - 8146.41	4	0.1206 - 0.1345	820.27 - 850.81	12258.43 - 11136.20
5	0.1365 - 0.1414	735.75 - 751.37	8146.39 - 7536.83	5	0.1346 - 0.1533	850.82 - 865.81	11136.19 - 10191.53
6	0.1415 - 0.1484	751.38 - 767.37	7536.82 - 7068.48	6	0.1534 - 0.1612	865.82 - 877.45	10191.52 - 9872.54
7	0.1485 - 0.1534	767.38 - 778.28	7068.46 - 6547.97	7	0.1613 - 0.1704	877.46 - 883.79	9872.53 - 9523.39
8	0.1535 - 0.1586	778.29 - 787.63	6547.96 - 6230.55	8	0.1705 - 0.1774	883.80 - 887.97	9523.38 - 9120.43
9	0.1587 - 0.1676	787.64 - 794.45	6230.54 - 6005.05	9	0.1775 - 0.1851	887.98 - 898.40	9120.42 - 8818.13
10	0.1677 - 0.1769	794.46 - 804.63	6005.04 - 5822.16	10	0.1852 - 0.1901	898.41 - 903.33	8818.12 - 8505.88
11	0.1770 - 0.1805	804.64 - 811.69	5822.14 - 5681.08	11	0.1902 - 0.1941	903.34 - 909.17	8505.87 - 8215.24
12	0.1806 - 0.1874	811.70 - 814.50	5681.07 - 5433.63	12	0.1942 - 0.2003	909.18 - 913.86	8215.23 - 7860.74
13	0.1875 - 0.1922	814.51 - 825.52	5433.62 - 5227.31	13	0.2004 - 0.2064	913.87 - 919.25	7860.73 - 7606.12
14	0.1923 - 0.1963	825.53 - 828.34	5227.30 - 4983.79	14	0.2065 - 0.2102	919.26 - 923.72	7606.11 - 7472.23
15	0.1964 - 0.2017	828.35 - 837.84	4983.78 - 4862.78	15	0.2103 - 0.2162	923.73 - 926.05	7472.21 - 7273.46
16	0.2018 - 0.2061	837.85 - 846.16	4862.77 - 4762.16	16	0.2163 - 0.2206	926.06 - 929.58	7273.45 - 7085.21
17	0.2062 - 0.2095	846.17 - 851.68	4762.14 - 4628.16	17	0.2207 - 0.2308	929.59 - 933.00	7085.20 - 7000.00
18	0.2096 - 0.2125	851.69 - 857.72	4628.14 - 4503.25	18	0.2309 - 0.2347	933.01 - 939.15	6999.99 - 6872.23
19	0.2126 - 0.2165	857.73 - 861.79	4503.24 - 4338.75	19	0.2348 - 0.2387	939.16 - 941.22	6872.21 - 6775.14
20	0.2166 - 0.2192	861.80 - 865.53	4338.74 - 4263.28	20	0.2388 - 0.2434	941.23 - 943.18	6775.13 - 6651.76
21	0.2193 - 0.2216	865.54 - 869.95	4263.27 - 4180.99	21	0.2435 - 0.2467	943.19 - 947.16	6651.75 - 6542.32
22	0.2217 - 0.2300	869.96 - 874.51	4180.98 - 4090.86	22	0.2468 - 0.2539	947.17 - 951.02	6542.31 - 6503.20
23	0.2301 - 0.2336	874.52 - 879.57	4090.85 - 4031.66	23	0.2540 - 0.2614	951.03 - 955.65	6503.19 - 6387.74
24	0.2337 - 0.2408	879.58 - 885.73	4031.65 - 3944.33	24	0.2615 - 0.2654	955.66 - 959.49	6387.73 - 6280.41
25	0.2409 - 0.2472	885.74 - 900.68	3944.32 - 3889.87	25	0.2655 - 0.2690	959.50 - 963.90	6280.39 - 6197.99
26	0.2473 - 0.2512	900.69 - 906.07	3889.86 - 3781.61	26	0.2691 - 0.2726	963.91 - 967.59	6197.98 - 6144.89
27	0.2513 - 0.2590	906.08 - 913.15	3781.60 - 3711.79	27	0.2727 - 0.2769	967.60 - 970.79	6144.88 - 6066.42
28	0.2591 - 0.2618	913.16 - 917.66	3711.78 - 3595.21	28	0.2770 - 0.2812	970.80 - 972.59	6066.41 - 5948.17
29	0.2619 - 0.2657	917.67 - 922.49	3595.20 - 3543.72	29	0.2813 - 0.2862	972.60 - 975.13	5948.16 - 5884.54
30	0.2658 - 0.2728	922.50 - 934.11	3543.71 - 3448.13	30	0.2863 - 0.2908	975.14 - 979.58	5884.53 - 5813.29
31	0.2729 - 0.2804	934.12 - 939.27	3448.12 - 3404.81	31	0.2909 - 0.2954	979.59 - 982.63	5813.28 - 5756.19
32	0.2805 - 0.2874	939.28 - 948.64	3404.80 - 3336.48	32	0.2955 - 0.3002	982.64 - 986.94	5756.18 - 5671.60
33	0.2875 - 0.3063	948.65 - 959.35	3336.47 - 3299.58	33	0.3003 - 0.3035	986.95 - 988.94	5671.59 - 5597.58
34	0.3064 - 0.3173	959.36 - 968.41	3299.57 - 3256.53	34	0.3036 - 0.3092	988.95 - 988.99	5597.57 - 5541.36
35	0.3174 - 0.3260	968.42 - 975.34	3256.52 - 3159.90	35	0.3093 - 0.3111	988.99 - 991.54	5541.35 - 5483.98
36	0.3261 - 0.3330	975.35 - 981.92	3159.89 - 3073.79	36	0.3112 - 0.3158	991.55 - 994.56	5483.97 - 5430.30
37	0.3331 - 0.3412	981.93 - 986.55	3073.78 - 3023.41	37	0.3159 - 0.3196	994.57 - 995.79	5430.29 - 5389.48
38	0.3413 - 0.3521	986.56 - 1003.93	3023.40 - 2973.07	38	0.3197 - 0.3223	995.80 - 997.97	5389.47 - 5346.91
39	0.3522 - 0.3631	1003.94 - 1016.59	2973.06 - 2945.90	39	0.3224 - 0.3266	997.98 - 1001.08	5346.90 - 5281.13
40	0.3632 - 0.3874	1016.60 - 1028.87	2945.89 - 2883.20	40	0.3267 - 0.3290	1001.09 - 1002.89	5281.12 - 5209.19
41	0.3875 - 0.4039	1028.88 - 1045.87	2883.19 - 2833.64	41	0.3291 - 0.3361	1002.90 - 1005.28	5209.18 - 5183.42
42	0.4040 - 0.4539	1045.88 - 1063.23	2833.63 - 2739.04	42	0.3362 - 0.3419	1005.29 - 1008.50	5183.41 - 5104.30
43	0.4540 - 0.4690	1063.24 - 1073.09	2739.03 - 2664.53	43	0.3420 - 0.3476	1008.51 - 1010.74	5104.29 - 5057.97
44	0.4691 - 0.4881	1073.10 - 1085.30	2664.52 - 2572.99	44	0.3477 - 0.3508	1010.75 - 1013.30	5057.96 - 5030.55
45	0.4882 - 0.5447	1085.31 - 1127.26	2572.98 - 2449.73	45	0.3509 - 0.3558	1013.31 - 1016.90	5030.54 - 4990.62
46	0.5448 - 0.6239	1127.27 - 1149.25	2449.72 - 2273.26	46	0.3559 - 0.3616	1016.91 - 1019.46	4990.61 - 4933.88
47	0.6240 - 0.6918	1149.26 - 1251.87	2273.25 - 2134.18	47	0.3617 - 0.3671	1019.47 - 1023.81	4933.87 - 4885.74
48	0.6919 - 0.7669	1251.88 - 1251.88	2134.17 - 1.00	48	0.3672 - 0.3724	1023.82 - 1027.26	4885.73 - 4829.39
49				49	0.3725 - 0.3749	1027.27 - 1030.63	4829.38 - 4770.40
50				50			

## PART-A : STRENGTHENING

## 4 YR PRIVATE

## PART-A : CONTINUE

## 4 YR PRIVATE

POINT	PELL PERCENT	PELL DOLLAR	E AND G	POINT	NEED PERCENT	NEED DOLLAR	E AND G
51	0.3750	0.3798	1030.64	-1033.52	0.0001	0.0817	0.01
52	0.3759	0.3843	1033.53	-1035.76	0.0018	0.1223	740.67
53	0.3804	0.3894	1035.77	-1038.59	0.01234	0.1404	796.79
54	0.3895	0.3913	1038.60	-1040.71	0.1445	0.1620	837.77
55	0.3914	0.3957	1040.72	-1045.27	0.1627	0.1778	866.54
56	0.3958	0.3995	1045.28	-1048.07	0.1777	0.1870	888.81
57	0.3998	0.4028	1048.08	-1050.02	0.1871	0.1988	907.05
58	0.4028	0.4080	1050.03	-1054.38	0.1994	0.2107	921.69
59	0.4081	0.4117	1054.39	-1055.40	0.2108	0.2281	935.12
60	0.4117	0.4166	1055.41	-1058.17	0.2286	0.2356	956.32
61	0.4167	0.4236	1058.18	-1062.02	0.2359	0.2487	968.29
62	0.4237	0.4421	1062.03	-1065.00	0.2487	0.2519	978.43
63	0.4282	0.4338	1065.01	-1066.45	0.2520	0.2602	990.03
64	0.4339	0.4399	1066.46	-1068.84	0.2603	0.2679	1000.84
65	0.4400	0.4442	1068.85	-1071.64	0.2679	0.2745	1014.68
66	0.4443	0.4506	1071.65	-1075.90	0.2745	0.2832	1025.28
67	0.4507	0.4591	1075.91	-1082.76	0.2832	0.2933	1035.34
68	0.4592	0.4643	1082.77	-1087.99	0.2933	0.3031	1044.88
69	0.4644	0.4684	1084.00	-1090.51	0.3031	0.3107	1055.57
70	0.4685	0.4775	1090.52	-1095.58	0.3107	0.3179	1065.69
71	0.4776	0.4879	1095.59	-1100.58	0.3179	0.3264	1073.01
72	0.4878	0.4879	1100.59	-1102.51	0.3264	0.3354	1078.92
73	0.4880	0.4962	1102.52	-1105.76	0.3354	0.3402	1088.27
74	0.4963	0.5006	1105.77	-1110.39	0.3402	0.3489	1098.92
75	0.5007	0.5067	1110.40	-1115.64	0.3489	0.3572	1107.39
76	0.5068	0.5144	1115.65	-1118.62	0.3572	0.3648	1116.93
77	0.5195	0.5196	1118.63	-1122.35	0.3648	0.3753	1126.67
78	0.5197	0.5269	1122.36	-1126.87	0.3753	0.3849	1136.34
79	0.5270	0.5372	1126.88	-1131.60	0.3849	0.3914	1146.94
80	0.5373	0.5465	1131.61	-1137.17	0.3914	0.3993	1155.99
81	0.5466	0.5570	1137.18	-1144.48	0.3993	0.4080	1165.35
82	0.5571	0.5647	1144.49	-1151.57	0.4080	0.4194	1179.67
83	0.5648	0.5741	1151.58	-1159.05	0.4194	0.4298	1192.82
84	0.5742	0.5921	1159.06	-1167.57	0.4298	0.4375	1203.92
85	0.5922	0.6066	1167.58	-1178.91	0.4375	0.4457	1214.17
86	0.6067	0.6162	1178.92	-1186.16	0.4457	0.4594	1225.86
87	0.6163	0.6320	1186.17	-1194.99	0.4594	0.4753	1235.13
88	0.6321	0.6666	1195.00	-1210.30	0.4753	0.4887	1244.16
89	0.6667	0.6808	1210.31	-1234.72	0.4887	0.5013	1253.63
90	0.6809	0.7033	1234.73	-1256.80	0.5013	0.5144	1263.08
91	0.7034	0.7466	1256.81	-1284.64	0.5144	0.5265	1276.07
92	0.7467	0.7765	1284.65	-1305.09	0.5265	0.5451	1289.84
93	0.7766	0.8188	1305.10	-1334.16	0.5451	0.5625	1293.84
94	0.8189	0.8610	1334.17	-1352.67	0.5625	0.5941	1293.84
95	0.8611	0.8810	1352.68	-1372.62	0.5941	0.6114	1305.14
96	0.8811	0.9451	1372.63	-1409.40	0.6114	0.6451	1316.11
97	0.9451	0.9935	1409.41	-1446.11	0.6451	0.7114	1325.13
98	0.9936	1.1036	1446.12	-1556.23	0.7114	0.8182	1335.37
99	1.1037	1.3161	1556.24	-1649.46	0.8182	0.9419	1344.20
100	1.3162	1649.47	-	-	0.9419	1755.22	-

## PART-B : SPECIAL NEEDS

## 4 YR PRIVATE

POINT	NEED PERCENT	NEED DOLLAR	E AND G
1	0.0001	0.0817	0.01
2	0.0018	0.1223	740.67
3	0.01234	0.1404	796.79
4	0.1445	0.1620	837.77
5	0.1627	0.1778	866.54
6	0.1777	0.1870	888.81
7	0.1871	0.1988	907.05
8	0.1994	0.2107	921.69
9	0.2108	0.2281	935.12
10	0.2286	0.2356	956.32
11	0.2359	0.2487	968.29
12	0.2487	0.2519	978.43
13	0.2520	0.2602	990.03
14	0.2603	0.2679	1000.84
15	0.2679	0.2745	1014.68
16	0.2745	0.2832	1025.28
17	0.2832	0.2933	1035.34
18	0.2933	0.3031	1044.88
19	0.3031	0.3107	1055.57
20	0.3107	0.3179	1065.69
21	0.3179	0.3264	1073.01
22	0.3264	0.3354	1078.92
23	0.3354	0.3402	1088.27
24	0.3402	0.3489	1098.92
25	0.3489	0.3572	1107.39
26	0.3572	0.3648	1116.93
27	0.3648	0.3753	1126.67
28	0.3753	0.3849	1136.34
29	0.3849	0.3914	1146.94
30	0.3914	0.3993	1155.99
31	0.3993	0.4080	1165.35
32	0.4080	0.4194	1179.67
33	0.4194	0.4298	1192.82
34	0.4298	0.4375	1203.92
35	0.4375	0.4457	1214.17
36	0.4457	0.4594	1225.86
37	0.4594	0.4753	1235.13
38	0.4753	0.4887	1244.16
39	0.4887	0.5013	1253.63
40	0.5013	0.5144	1263.08
41	0.5144	0.5265	1276.07
42	0.5265	0.5451	1289.84
43	0.5451	0.5625	1293.84
44	0.5625	0.5941	1293.84
45	0.5941	0.6114	1305.14
46	0.6114	0.6451	1316.11
47	0.6451	0.7114	1325.13
48	0.7114	0.8182	1335.37
49	0.8182	0.9419	1344.20
50	0.9419	1755.22	-

PART - B: SPECIAL NEEDS

4 YR. PUBLIC GR.

POINT	NEED PERCENT	NEED DOLLARS
1	0.0001 - 0.0017	0.01 - 1212.49
6	0.0018 - 0.1148	1212.50 - 1574.81
16	0.1149 - 0.3133	1574.82 - 1798.75
26	0.3134 - 0.3896	1798.76 - 2125.12
36	0.3897 - 0.4666	2125.13 - 3524.34
50	0.4667+	3524.35+

PART - B: SPECIAL NEEDS  
4 YR. PRIVATE GR.

POINT	NEED PERCENT	NEED DOLLAR
1	0.0001 - 0.0221	0.01 - 516.16
2	0.0222 - 0.0364	516.17 - 762.82
3	0.0365 - 0.0376	762.83 - 780.62
4	0.0377 - 0.0662	780.63 - 835.11
5	0.0663 - 0.0759	835.12 - 838.81
6	0.0760 - 0.0870	838.82 - 876.52
7	0.0871 - 0.0908	876.53 - 892.37
8	0.0909 - 0.0999	892.38 - 917.56
9	0.1000 - 0.1030	917.57 - 926.94
10	0.1031 - 0.1077	926.95 - 928.56
11	0.1078 - 0.1143	928.57 - 940.22
12	0.1144 - 0.1204	940.23 - 960.08
13	0.1205 - 0.1221	960.09 - 1095.77
14	0.1222 - 0.1276	1095.78 - 1113.75
15	0.1277 - 0.1326	1113.76 - 1133.93
16	0.1327 - 0.1370	1133.94 - 1139.93
17	0.1371 - 0.1415	1139.94 - 1144.99
18	0.1416 - 0.1484	1145.00 - 1156.93
19	0.1485 - 0.1487	1156.94 - 1168.60
20	0.1488 - 0.1596	1168.61 - 1196.86
21	0.1597 - 0.1603	1196.87 - 1232.04
22	0.1604 - 0.1644	1232.05 - 1249.57
23	0.1645 - 0.1650	1249.58 - 1250.95
24	0.1651 - 0.1757	1250.96 - 1270.49
25	0.1758 - 0.1764	1270.50 - 1270.84
26	0.1765 - 0.1837	1270.85 - 1317.32
27	0.1838 - 0.2010	1317.33 - 1337.42
28	0.2011 - 0.2218	1337.43 - 1347.99
29	0.2219 - 0.2259	1348.00 - 1392.01
30	0.2260 - 0.2264	1392.02 - 1432.55
31	0.2265 - 0.2399	1432.56 - 1456.75
32	0.2400 - 0.2434	1456.76 - 1479.39
33	0.2435 - 0.2602	1479.40 - 1546.67
34	0.2603 - 0.2608	1546.68 - 1622.46
35	0.2609 - 0.2613	1622.47 - 1722.92
36	0.2614 - 0.2656	1722.93 - 1787.32
37	0.2657 - 0.2726	1787.33 - 1803.44
38	0.2727 - 0.2740	1803.45 - 1969.06
39	0.2741 - 0.2871	1969.07 - 2015.93
40	0.2872 - 0.3076	2015.94 - 2049.99
41	0.3077 - 0.3090	2050.00 - 2158.53
42	0.3091 - 0.3389	2158.54 - 2235.42
43	0.3390 - 0.3448	2235.43 - 2359.42
44	0.3449 - 0.3549	2359.43 - 2383.31
45	0.3550 - 0.3686	2383.32 - 2499.99
46	0.3689 - 0.4614	2500.00 - 3076.63
47	0.4615 - 0.5255	3076.64 - 4230.73
48	0.5256 - 0.5454	4230.74 - 5743.71
49	0.5455 - 1.6499	5743.72 - 9998.00
50	1.6500+	9998.01+

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BILLING CODE 4000-01-C

**DEPARTMENT OF ENERGY****Federal Energy Regulatory  
Commission**

[Docket Nos. RM79-34 and ST83-114]

**Natural Gas Policy Act; Transportation  
Certificates for Natural Gas  
Displacement of Fuel Oil; Seagull  
Shoreline System; Self-Implementing  
Transactions**

February 2, 1983.

Take notice that the following transactions have been reported to the Commission as being implemented pursuant to Part 284 of the Commission's Regulations and Sections 311 and 312 of the Natural Gas Policy Act of 1978 (NGPA). The "Recipient" column in the following table indicates the entity receiving or purchasing the natural gas in each transaction.

The "Part 284 Subpart" column in the following table indicates the type of transaction. A "B" indicates

transportation by an interstate pipeline pursuant to § 284.102 of the Commission's Regulations.

A "C" indicates transportation by an intrastate pipeline pursuant to § 284.122 of the Commission's Regulations. In those cases where Commission approval of a transportation rate is sought pursuant to § 284.123(b)(2), the table lists the proposed rate and expiration date for the 150-day period for staff action. Any person seeking to participate in the proceeding to approve a rate listed in the table should file a petition to intervene with the Secretary of the Commission.

A "D" indicates a sale by an intrastate pipeline pursuant to Section 284.142 of the Commission's Regulations and Section 311(b) of the NGPA. Any interested person may file a complaint concerning such sales pursuant to § 284.147(d) of the Commission's Regulations.

An "E" indicates an assignment by an

intrastate pipeline pursuant to § 284.163 of the Commission's Regulations and Section 312 of the NGPA.

An "F" indicates a fuel oil displacement transaction implemented pursuant to § 284.202 of the Commission's Regulations. Any interested persons may file a complaint concerning such transaction pursuant to § 284.205(d) of the Commission's Regulations.

A "G" indicates transportation by an interstate pipeline on behalf of another interstate pipeline pursuant to a blanket certificate issued under § 284.221 of the Commission's Regulations.

A "G (HT)" or "G (HS)" indicates transportation, sales or assignments by a Hinshaw Pipeline pursuant to a blanket certificate issued under § 284.222 of the Commission's Regulations.

**Kenneth F. Plumb,**  
*Secretary.*

BILLING CODE 6717-01-M



BOCKET NO.	TRANSPORTER/SELLER	RECIPIENT	DATE FILED	PART 284 SUBPART	EXPIRATION DATE *	TRANSPORTATION RATE (\$/MMBTU)
ST83-114	SEAGULL SHORELINE SYSTEM	NORTHERN NATURAL GAS CO.	12/02/82	C	05/01/83	30.00
ST83-115	KANSAS-NEBRASKA NATURAL GAS CO., INC.	NORTHERN GAS CO.	12/02/82	B	-	-
ST83-116	KANSAS-NEBRASKA NATURAL GAS CO., INC.	NORTHERN UTILITIES, INC.	12/02/82	B	-	-
ST83-117	MICHIGAN WISCONSIN PIPE LINE CO.	NORTHERN NATURAL GAS CO.	12/02/82	G	-	-
ST83-118	MICHIGAN WISCONSIN PIPE LINE CO.	NATURAL GAS PIPELINE CO. OF AMERICA	12/02/82	G	-	-
ST83-119	MICHIGAN WISCONSIN PIPE LINE CO.	CAJON NATURAL GAS CO.	12/02/82	B	-	-
ST83-120	MICHIGAN WISCONSIN PIPE LINE CO.	CONSOLIDATED GAS SUPPLY CORP.	12/02/82	G	-	-
ST83-121	TEXAS EASTERN TRANSMISSION CORP.	TRANSCONTINENTAL GAS PIPE LINE CORP.	12/03/82	G	-	-
ST83-122	TEXAS EASTERN TRANSMISSION CORP.	UNITED GAS PIPE LINE CO.	12/03/82	G	-	-
ST83-123	TEXAS NATURAL GAS CO.	CAJON NATURAL GAS CO.	12/06/82	B	-	-
ST83-124	GRANITE STATE GAS TRANSMISSION, INC.	NORTHERN UTILITIES, INC.	12/06/82	B	-	-
ST83-125	UNITED GAS PIPE LINE CO.	TEXAS EASTERN TRANSMISSION CORP.	12/06/82	G	-	-
ST83-126	TRUNKLINE GAS CO.	SOUTH JERSEY GAS CO., ET AL.	12/07/82	B	-	-
ST83-127	TRUNKLINE GAS CO.	HOUSTON PIPE LINE CO.	12/07/82	B	-	-
ST83-128	LOUISIANA INTRASTATE GAS CORP.	SOUTHERN NATURAL GAS CO.	12/07/82	C	05/06/83	0.00
ST83-129	TRANSCONTINENTAL GAS PIPE LINE CORP.	PUBLIC SERVICE ELECTRIC AND GAS CO.	12/09/82	B	-	-
ST83-130	SUN GAS TRANSMISSION CO., INC.	TRANSCONTINENTAL GAS PIPE LINE CORP.	12/09/82	C	05/08/83	15.30
ST83-131	NATURAL GAS PIPELINE CO. OF AMERICA	MISSISSIPPI RIVER TRANSMISSION CORP.	12/09/82	G	-	-
ST83-132	COLUMBIA GAS TRANSMISSION CORP.	EASTERN SHORE NATURAL GAS CO.	12/09/82	G	-	-
ST83-133	LLANO, INC.	NORTHERN NATURAL GAS CO.	12/10/82	C	05/09/83	25.50
ST83-134	LIBERTY NATURAL GAS CO.	TRANSWESTERN PIPELINE CO.	12/10/82	C	-	-
ST83-135	TEXAS EASTERN TRANSMISSION CORP.	TENNESSEE GAS PIPELINE CO.	12/10/82	G	-	-
ST83-136	TEXAS GAS TRANSMISSION CORP.	DOW INTRASTATE GAS CO.	12/10/82	B	-	-
ST83-137	TRANSCONTINENTAL GAS PIPE LINE CORP.	TEXAS EASTERN TRANSMISSION CORP.	12/13/82	G	-	-
ST83-138	TRANSCONTINENTAL GAS PIPE LINE CORP.	EASTERN SHORE NATURAL GAS CO.	12/13/82	G	-	-
ST83-139	TRANSCONTINENTAL GAS PIPE LINE CORP.	TEXAS EASTERN TRANSMISSION CORP.	12/13/82	G	-	-
ST83-140	UNITED GAS PIPE LINE CO.	TENNESSEE GAS PIPELINE CO.	12/13/82	G	-	-
ST83-141	PRODUCER'S GAS CO.	MICHIGAN WISCONSIN PIPE LINE CO.	12/13/82	C	-	-
ST83-142	TENNESSEE GAS PIPELINE CO.	VALLEY GAS CO.	12/13/82	B	-	-
ST83-143	NORTHERN NATURAL GAS CO.	ENDEVO PIPELINE CO.	12/13/82	B	-	-
ST83-144	FLORIDA GAS TRANSMISSION CO.	DOW INTRASTATE GAS CO.	12/13/82	B	-	-
ST83-145	VALERO TRANSMISSION CO.	NATURAL GAS PIPELINE CO. OF AMERICA	12/15/82	C	-	-
ST83-146	MOUNTAIN FUEL SUPPLY CO.	COLORADO INTERSTATE GAS CO.	12/15/82	G	-	-
ST83-147	TENNGASCO GAS GATHERING CO.	NORTHERN NATURAL GAS CO.	12/16/82	C	-	-
ST83-148	TENNESSEE GAS PIPELINE CO.	PUBLIC SERVICE ELECTRIC AND GAS CO.	12/17/82	B	-	-
ST83-149	TRUNKLINE GAS CO.	TEXAS EASTERN TRANSMISSION CORP.	12/20/82	G	-	-
ST83-150	MIDWESTERN GAS TRANSMISSION CO.	TENNESSEE GAS PIPELINE CO.	12/20/82	G	-	-
ST83-151	SOUTHERN NATURAL GAS CO.	SUGAR BOWL GAS CORP.	12/20/82	B	-	-
ST83-152	NORTHERN NATURAL GAS CO.	RAEL GAS CO.	12/17/82	B	-	-
ST83-153	OASIS PIPE LINE CO.	TRANSWESTERN PIPE LINE CO.	12/20/82	C	-	-
ST83-154	MICHIGAN WISCONSIN PIPE LINE CO.	PRODUCER'S GAS CO.	12/20/82	B	-	-
ST83-155	HOWELL PIPELINE CO.	THE CITY OF MILTON, FL	12/21/82	D	-	-
ST83-156	NATURAL GAS PIPELINE CO. OF AMERICA	COLUMBIA GAS TRANSMISSION CORP., ET AL.	12/22/82	G	-	-
ST83-157	TENNESSEE GAS PIPELINE CO.	CONCORD NATURAL GAS CORP.	12/22/82	B	-	-
ST83-158	TENNESSEE GAS PIPELINE CO.	NATIONAL FUEL GAS DISTRIBUTION CORP.	12/22/82	B	-	-
ST83-159	EL PASO NATURAL GAS CO.	PRODUCER'S GAS CO.	12/22/82	B	-	-
ST83-160	PANHANDLE EASTERN PIPE LINE CO.	PRODUCER'S GAS CO.	12/22/82	B	-	-
ST83-161	TRANSCONTINENTAL GAS PIPE LINE CORP.	PUBLIC SERVICE ELECTRIC AND GAS CO.	12/27/82	B	-	-
ST83-162	TRANSCONTINENTAL GAS PIPE LINE CORP.	HOUSTON PIPE LINE CO.	12/27/82	B	-	-
ST83-163	TRANSCONTINENTAL GAS PIPE LINE CORP.	NORTHERN NATURAL GAS CO.	12/27/82	G	-	-
ST83-164	TRANSCONTINENTAL GAS PIPE LINE CORP.	EL PASO NATURAL GAS CO.	12/27/82	C	-	-
ST83-165	TANGRAM TRANSMISSION CORP.	FLORIDA GAS TRANSMISSION CO.	12/27/82	C	-	-
ST83-166	NORTHERN NATURAL GAS CO.	TENNESSEE GAS PIPELINE CO.	12/27/82	C	05/26/83	38.60
ST83-167	GUIVIRA GAS CO.	DOW INTRASTATE GAS CO.	12/27/82	B	-	-
ST83-168	FLORIDA GAS TRANSMISSION CO.	DOW INTRASTATE GAS CO.	12/27/82	B	-	-

\* THE INTRASTATE PIPELINE HAS SOUGHT COMMISSION APPROVAL OF ITS TRANSPORTATION RATE PURSUANT TO SECTION 284.123(B)(2) OF THE COMMISSION'S REGULATIONS (18 CFR 284.123(B)(2)). SUCH RATES ARE DEEMED FAIR AND EQUITABLE IF THE COMMISSION DOES NOT TAKE ACTION BY THE DATE INDICATED.

**[Docket No. QF82-169-000]****Applied Energy Inc., Naval Training Center; Application for Commission Certification of Qualifying Status of Cogeneration Facility**

February 4, 1983.

On July 1, 1982, Applied Energy, Inc. (Applicant), P.O. Box 909, San Diego, California 92112, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules. Applicant filed supplementary information on November 24, 1982.

The topping-cycle cogeneration facility is located at the Naval Training Center and the Marine Corps Recruit Depot in San Diego, California. The facility consists of an existing combustion turbine and waste heat recovery boiler to which a new condensing steam turbine generator will be added to utilize excess steam in a combined cycle configuration. The primary energy source to the facility is natural gas or distillate oil. The electric power production capacity of the existing turbine generator is 17.0 megawatts. The new turbine generator will have a capacity of 3.5 megawatts. Installation of the original facility began in December 1969, and the installation of the addition began in August 1982. Applicant, a wholly-owned subsidiary of the San Diego Gas and Electric Company, operates the facility and states that ownership of cogeneration equipment is shared with the United States Navy.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**  
*Secretary.*

[FR Doc. 83-3357 Filed 2-7-83; 8:45 am]  
BILLING CODE 6717-01-M

**[Docket No. QF82-171-000]****Applied Energy, Inc., U.S. Naval Air Station; Application for Commission Certification of Qualifying Status of a Cogeneration Facility**

February 4, 1983.

On July 1, 1982, Applied Energy, Inc. (Applicant), P.O. Box 909, San Diego, California 92112, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules. Applicant filed supplementary information on November 24, 1982.

The topping cycle cogeneration facility is located at the U.S. Naval Air Station, North Island in Coronado, California. The facility consists of an existing combustion turbine and waste heat recovery boiler to which a new condensing steam turbine generator will be added to utilize excess steam in a combined cycle configuration. The primary energy source to the facility is natural gas or distillate oil. The electric power production capacity of the existing turbine generator is 20.0 megawatts. The new turbine generator will have a capacity of 5.1 megawatts. Installation of the original facility began in July 1976, and the installation of the addition began in August 1982.

Applicant, a wholly-owned subsidiary of the San Diego Gas and Electric Company, operates the facility and states that ownership of cogeneration equipment is shared with the United States Navy.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**  
*Secretary.*

[FR Doc. 83-3358 Filed 2-7-83; 8:45 am]  
BILLING CODE 6717-01-M

**[Docket No. QF83-150-000]****Alternative Energy Resources, Inc.; Application for Commission Certification of Qualifying Status of Cogeneration Facility**

February 2, 1983.

On January 17, 1983, Alternative Energy Resources, Inc. of 9940 Viscount, Suite 220, El Paso, Texas, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility will be located at 1477 Lomaland, El Paso, Texas 79935. The primary energy source to the facility will be natural gas. The electric power production capacity will be 75 kilowatts. The facility will be equipped with an Otto cycle engine with 75 KW generator, absorption chilling equipment and heat exchangers for heating and cooling manufacturing and office building. Installation began July 1982. Applicant states no electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**  
*Secretary.*

[FR Doc. 83-3342 Filed 2-7-83; 8:45 am]  
BILLING CODE 6717-01-M

**[Docket No. QF83-141-000]****Galaxy Project I; Application for Commission Certification of Qualifying Status of Small Power Production Facility**

February 2, 1983.

On January 14, 1983, Galaxy Project I,

of 511 Marina Center, Suisun, Solana County, California, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be a 12 kilowatt wind installation located at Bird's Landing, Solano County, California. Applicant states that no other facilities owned by the applicant is located within one mile of the site. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 83-3346 Filed 2-7-83; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. QF83-138-000]

**Genstar Gas Recovery System Inc.;  
Application for Commission  
Certification of Qualifying Status of a  
Small Power Production Facility**

February 2, 1983.

On December 10, 1982, Genstar Gas Recovery System Inc., of 177 Bovet Road, Suite 550, San Mateo, California 94402, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility will be located at Guadalupe Landfill in San Jose, California. The generating capacity of the facility will be one megawatt. The primary energy source will be landfill gas. Applicant states that no other

facilities owned by the applicant is located within one mile of the site. No electric utility, electric utility holding company or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 83-3347 Filed 2-7-83; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. QF83-147-000]

**Scripps Clinic & Research Foundation;  
Application for Commission  
Certification of Qualifying Status of  
Cogeneration Facility**

February 2, 1983.

On January 17, 1983, Scripps Clinic and Research Foundation of 10666 North Torrey Pines Road, La Jolla, California 92037, filed with the Federal Energy Regulatory Commission (Commission) an application for certification of a facility as a qualifying cogeneration facility pursuant to § 292.207 of the Commission's rules.

The topping-cycle cogeneration facility will be located in La Jolla, California. The primary energy source to the facility will be natural gas. The electric power production capacity will be 500 kilowatts. The steam produced by the heat recovery equipment will be introduced into the building's existing steam system and will offset steam currently produced by existing gas fired boilers used for heating hot water, domestic hot water, kitchen and lab steam supply and sterilizes. Installation will begin June 6, 1983. Applicant states no electric utility, electric utility holding company or any combination thereof

has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 83-3353 Filed 2-7-83; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. QF83-96-000]

**UOP Energy Recovery Corp. of  
Pinellas; Petition for Declaratory Order  
Denying, or Waiving Jurisdiction or, in  
the Alternative, Application for  
Commission Certification of Qualifying  
Status of a Small Power Production  
Facility**

February 2, 1983.

On December 10, 1983, UOP Energy Recovery Corp. of Pinellas, 10 UOP Plaza, Des Plaines, Illinois 60016, filed with the Federal Energy Regulatory Commission (Commission) a petition for declaratory order denying jurisdiction pursuant to section 210(f) of the Federal Power Act, or granting a waiver of the exercise of jurisdiction, or granting an application for certification of a facility as a qualifying small power production facility pursuant to § 292.207 of the Commission's rules.

The facility is wholly owned by Pinellas County, and UOP will operate the facility as an independent contractor. The facility will be located in Pinellas County, Florida. The primary energy source to the facility will be biomass in the form of municipal waste. No gas, oil or coal will be used in the facility. The electric power production capacity of the facility will be 50 megawatts. No other biomass fueled small power production facility owned by Pinellas County is located within one

mile of the facility. No electric utility, electric utility holding company, or any combination thereof has any ownership interest in the facility.

Any person desiring to be heard or objecting to the granting of a declaratory order or objecting to the granting of qualifying status should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests must be filed within 30 days after the date of publication of this notice and must be served on the applicant. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 83-3355 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-1-002 (PGA83-1) (IPR83-1)]

#### **Alabama-Tennessee Natural Gas Co.; Revised PGA Rate Adjustment**

February 3, 1983.

Take notice that on January 24, 1983, Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), P.O. Box 918, Florence, Alabama 35631, tendered for filing Second Substitute Thirty-Eighth Revised Sheet No. 3-A as part of its FPC Gas Tariff, Third Revised Volume No. 1. This tariff sheet is proposed to become effective January 1, 1983, and Alabama-Tennessee requests that there be granted any necessary waivers of the Commission's Regulations to accomplish this proposed effective date.

Alabama-Tennessee states that the sole purpose of the revised tariff sheet, Second Substitute Thirty-Eighth Revised Sheet No. 3-A, is to provide a downward adjustment in the rates filed in this matter of December 1, 1982 as required by the Commission's order issued herein on December 30, 1982 and to reflect a reduction in the rates of its principal supplier, Tennessee Gas Pipeline Company, a Division of Tenneco Inc., filed on January 21, 1983, in Docket No. TA83-1-9, also proposed to become effective January 1, 1983.

Second substitute Thirty-Eighth Revised Sheet No. 3-A provides for the following rates:

Rate schedule	Rates after current adjustment
G-1:	
Demand .....	\$6.05
Commodity .....	421.04
SG-1:	
Commodity .....	462.24
I-1:	
Commodity .....	440.91

Alabama-Tennessee states that copies of the tariff filing have been mailed to all of its jurisdictional customers and affected State Regulatory Commissions.

Any person desiring to be heard or to protest such filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 or 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before February 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further pleading. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 83-3304 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No CP83-138-000]

#### **Columbia Gas Transmission Corp.; Application**

February 2, 1983.

Take notice that on December 23 1982, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314, filed in Docket No. CP83-138-000 an application pursuant to Section 7(c) of the natural Gas Act for a certificate of public convenience and necessity authorizing service to Delta Natural Gas Company, Inc. (Delta) and The Suburban Fuel Gas, Inc. (Suburban), both existing wholesale customers of Columbia, under revised service agreements, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Columbia proposes to serve Delta under a revised service agreement which would effectuate a consolidation

of its contract demand under Rates Schedule CDS to Delta (Cubic-land) of 3,800 dt equivalent of gas per day and Delta (Wiser) of 1,600 dt equivalent of gas per day for a total of 5,400 dt equivalent of gas per day to Delta (Cumberland) in Zone 3. Columbia states that this proposal would not result in the termination of service to any of Delta's existing customers nor result in any charge in Delta's total daily entitlement from Columbia. Columbia proposes to cancel its service agreement with Delta (Wiser) and abandon the delivery point related thereto, but the measuring station associated therewith would be retained by Columbia for other company purposes.

Columbia also requests authorization for a revised service agreement with Suburban that would provide an additional delivery point in Middleton Township, Wood County, Ohio, in Zone 4. Columbia states that the Consumers Natural Gas Company (Consumers) and Suburban received joint authorization from the Public Utilities Commission of Ohio to transfer from Consumers to Suburban the lease agreement covering service to the Village of Haskins, Ohio, which is presently served by Consumers. Columbia states that it would not be required to construct any facilities since Suburban would install a deduct meter necessary to measure volumes delivered at this point to the Village of Haskins. According to Columbia, there would be no increase in Suburban's Rate Schedule G entitlement nor a decrease in Consumers' Rate Schedule SGS entitlement in Zone 4.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 23, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act

and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Columbia to appear or be represented at the hearing.

**Kenneth F. Plumb,**  
Secretary.

[FR Doc. 83-3344 Filed 2-7-83; 8:45 am]  
BILLING CODE 6717-01-M

**[Docket No. CP79-468-003]**

**Columbia Gulf Transmission Co. and Texas Eastern Transmission Corp.; Petition To Amend**

February 2, 1983.

Take notice that on December 28, 1982, Columbia Gulf Transmission Company (Columbia Gulf), P.O. Box 683, Houston, Texas 77001, and Texas Eastern Transmission Corporation (Texas Eastern), P.O. Box 2521, Houston, Texas 77252, filed in Docket No. CP79-468-003 a joint petition to amend the order issued November 26, 1979, in Docket No. CP79-468 pursuant to Section 7(c) of the Natural Gas Act so as to include additional supplies of natural gas in an exchange arrangement between them, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Petitioners state that under authorization granted by the order issued November 26, 1979, Texas Eastern transports up to 50,000 Mcf of gas per day received from Columbia Gulf in Angelina County, Texas, and delivers equivalent volumes to Trunkline Gas Company (Trunkline) in either Allen or Beauregard Parishes, Louisiana. It is further stated that Trunkline delivers equivalent quantities to Columbia Gulf near Centerville, Louisiana.

It is asserted that Texas Eastern has purchased gas from Skyline Oil Company from Cameron Parish, Louisiana, which Petitioners desire to include in the exchange arrangements. Petitioners maintain that they do not

seek to increase the total volumes of gas to be exchanged.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before Feb. 23, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

**Kenneth F. Plumb,**  
Secretary.

[FR Doc. 83-3343 Filed 2-7-83; 8:45 am]  
BILLING CODE 6717-01-M

**[Docket Nos. TA83-1-2-001 and RP82-124-003]**

**East Tennessee Natural Gas Co.; Revised Rate Filing**

February 3, 1983.

Take notice that on January 21, 1983, East Tennessee Natural Gas Company (East Tennessee) tendered for filing Second Substitute Fourth Revised Sheet No. 4 to Original Volume No. 1 of its FERC Gas Tariff, to be effective January 1, 1983, and Substitute Fifth Revised Sheet No. 4 to Original Volume No. 1 to be effective February 1, 1983.

East Tennessee states that the sole purpose of the revised tariff sheet is to reflect a revision in its gas rates to reflect the reduction in the rates of Tennessee Gas Pipeline Company, a Division of Tenneco Inc., which will become effective January 1, 1983.

East Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before February 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be

taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**  
Secretary.

[FR Doc. 83-3305 Filed 2-7-83; 8:45 am]  
BILLING CODE 6717-01-M

**[Docket No. TC83-3-000]**

**Eastern Shore Natural Gas Co.; Tariff Filing**

February 2, 1983.

Take notice that on January 14, 1983, Eastern Shore Natural Gas Company (Eastern Shore) tendered for filing the following revised tariff sheet for inclusion in Eastern Shore's FERC Gas Tariff, Original Volume No. 1:

Fourth Revised Sheet No. 424.

Eastern Shore states that the purpose of the revised tariff sheet, which has a proposed effective date of February 14, 1983, is to reflect charges in Eastern Shore's Priority One requirements that result from the application of Eastern Shore's currently effective curtailment plan to changes in Eastern Shore's gas service approved by the Commission in Docket No. CP82-96-000 on April 23, 1982. That order authorized, *inter alia*, the transfer of firm gas service from customers with reduced contract demand requirements to jurisdictional customers pro rata, on the basis of their existing contract demands. The increased levels of contract demand were requested by Eastern Shore's customers in order to satisfy high priority requirements.

Eastern Shore states that copies of this filing have been mailed to Eastern Shore's jurisdictional customers and interested state regulatory commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214). All such petitions or protests should be filed on or before February 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to

the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 83-3306 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP79-155-012]

#### El Paso Natural Gas Co.;

##### Tariff Filing

February 3, 1983.

Take notice that on January 24, 1983, El Paso Natural Gas Company ("El Paso"), pursuant to Part 154 of the Federal Energy Regulatory Commission ("Commission") Regulations Under the Natural Gas Act, tendered for filing Second Revised Sheet Nos. 1314 and 1319, First Revised Sheet No. 1319-A, Original Sheet Nos. 1319-B and 1319-C, and First Revised Sheet No. 1328-A to special Rate Schedule X-52 contained in its FERC Gas Tariff, Third Revised Volume No. 2.

El Paso states that special Rate Schedule X-52 is comprised of a Gas Exchange Agreement ("Exchange Agreement") dated December 29, 1978, as amended, between El Paso and Arkansas Louisiana Gas Company, a Division of Arkla, Inc. ("Arkla") providing for the gathering, delivery and exchange between the parties, on an Mcf for Mcf basis, without charge, of volumes of natural gas produced from existing and future wells located in Hemphill, Roberts and Wheeler Counties, Texas, and Beckham, Caddo, Custer, Ellis, Roger Mills and Washita Counties, Oklahoma, which counties collectively comprise the area of interest covered by the subject Exchange Agreement. By Commission order issued June 25, 1979, at Docket Nos. CP79-155 and CP-243, El Paso and Arkla, respectively, were granted certificate and tariff authorizations for said exchange arrangement. Ordering paragraph (F) of said order requires El Paso and Arkla to file, on or before January 31, of each year, revisions to Exhibits A and/or B of the Exchange Agreement to reflect the addition and deletion of wells and/or balancing points. Accordingly, the tendered tariff sheets, when accepted for filing and permitted to become effective, will (i) revise Exhibit A to the Exchange Agreement by reflecting the addition of two (2) wells and related interest percentage information, in the area of interest, (ii) provide certain operational

information with respect to the addition of said wells to Exhibit A, and (iii) update the title page by reflecting the dates of the amendments to the Exchange Agreement.

El Paso has requested that the tariff sheets tendered be accepted for filing and permitted to become effective thirty (30) days following the date of filing.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before February 16, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of Rule 214 or Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). Protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make any protestants parties to the proceeding. Any person wishing to become a party to a proceeding must file a motion to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 83-3307 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP83-137-000]

#### El Paso Natural Gas Co.; Application

February 3, 1983.

Take notice that on December 22, 1982, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79970, filed in Docket No. CP83-137-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of natural gas for Amoco Production Company (Amoco), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that it currently purchases approximately 12,754 Mcf of surplus residue gas per day from Amoco at the outlet of Amoco's Levelland gasoline plant in Hockley County, Texas, pursuant to two residue gas purchase agreements, each dated October 1, 1949, as amended. In addition Applicant states that it currently purchases approximately 5,276 Mcf of surplus residue gas per day from Amoco at the outlet of Amoco's Slaughter gasoline plant in Hockley County, Texas, pursuant to three residue gas

purchase agreements each dated February 20, 1949, as amended.

Applicant indicates that it has been informed that Amoco plans to improve its ethane recovery operations at the Slaughter gasoline plant by implementing a deeper extraction process which activity would reduce or eliminate volumes of surplus residue gas available for sale to Applicant. Applicant further asserts that Amoco would require up to 5,000 Mcf per day of pipeline quality gas on approximately ten to fifteen days of each winter month in connection with the ethane recovery enhancement project. To meet these fuel gas requirements, Applicant states that Amoco has exercised its right under the Levelland agreements to reserve quantities of residue gas for plant fuel and operational needs at other plants.

It is asserted that in order to make the Levelland residue gas available to Amoco for use at its Slaughter gasoline plant, Applicant and Amoco have entered into a gas transportation agreement dated August 11, 1982. Pursuant to the agreement, Applicant proposes to transport up to 5,000 Mcf of gas per day on a best-efforts basis for Amoco for a period commencing on the date when all necessary regulatory approvals have been obtained and accepted and terminating when the Levelland agreements have terminated.

It is stated that Applicant would receive the subject gas from Amoco at the Levelland receipt point located in Hockley County, Texas, and would redeliver equivalent volumes on a volumetric basis to Amoco at the Slaughter delivery point located in Hockley County, Texas. It is further stated that no new facilities are needed to implement the transportation service.

Applicant proposes to charge Amoco its short haul charge rate in effect from time to time as set forth on Sheet No. 1-D.2 of Applicant's FERC Gas Tariff, Third Revised Volume No. 2 or superseding tariff for all volumes transported.

Any person desiring to be heard or to make any protest with reference to said applicant should on or before February 24, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding.

Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

**Kenneth F. Plumb,**  
*Secretary.*

[FR Doc. 83-3359 Filed 2-7-83; 8:45 am]  
BILLING CODE 6717-01-M

[Docket Nos. RP82-33-000 and RP83-6-000, et al.]

#### **El Paso Natural Gas Co., Informal Settlement Conference**

February 2, 1983.

Take notice that an informal settlement conference in the above-captioned dockets will be convened at 9:30 a.m. on February 15, 1983, at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in a Commission meeting room to be announced.

All interested parties and Staff will be permitted to attend.

**Kenneth F. Plumb,**  
*Secretary.*

[FR Doc. 83-3360 Filed 2-7-83; 8:45 am]  
BILLING CODE 6717-01-M

[Docket Nos. CP82-394-000 and CP82-394-001]

#### **El Paso Natural Gas Co. and Phillips Petroleum Co.; Amendment**

February 2, 1983

Take notice that on January 7, 1983, Phillips Petroleum Company (Phillips), 1258 Adams Building, Bartlesville, Oklahoma 74004, filed in Docket No.

CP82-394-001 pursuant to Section 7(c) of the Natural Gas Act an amendment to the pending application filed in Docket No. CP82-394-000 by El Paso Natural Gas Company (El Paso) so as to reflect the addition of Phillips as an applicant in the subject proceeding, all as more fully set forth in the amendment which is on file with the Commission and open to public inspection.

El Paso has proposed to accept for the account of Phillips pursuant to a gas exchange agreement dated June 18, 1982, up to 95,000 Mcf of gas per day at an existing point of interconnection between the facilities of El Paso and Phillips located at the outlet of Phillips' Dumas Plant in Moore County, Texas. It is asserted that in exchange, El Paso would concurrently deliver an equivalent quantity of gas to Phillips at an existing point of interconnection between the facilities of El Paso and Phillips located in Hutchinson County, Texas, referred to as the Borger delivery point, and at two proposed points of interconnection between the facilities of El Paso and Phillips located in Gray and Wheeler Counties, Texas, referred to as the Pampa and Wheeler delivery points, respectively, an equivalent volume of natural gas.

El Paso also has proposed to construct and operate tap facilities at the Pampa and Wheeler delivery points. El Paso states that it estimates the cost of the proposed facilities to be \$15,680. Such facilities, it is asserted, would be financed through the use of internally generated funds.

Any person desiring to be heard or to make any protest with reference to said amendment should on or before February 18, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. An person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules. All persons who have heretofore filed need not file again.

**Kenneth F. Plumb,**  
*Secretary.*

[FR Doc. 83-3308 Filed 2-7-83; 8:45 am]  
BILLING CODE 6717-01-M

[Project No. 5905-000]

#### **Energenics Systems, Inc.; Surrender of Preliminary Permit**

February 2, 1983.

Take notice that Energenics Systems, Inc., Permittee for the Conchas Hydro Project No. 5905 located on the Canadian River in San Miguel County, New Mexico, has requested that its preliminary permit be terminated. The preliminary permit was issued on June 28, 1982, and would have expired on December 31, 1983. The Permittee states that Energenics has made engineering and other investigations and acquired data sufficient to determine that the proposed project is infeasible.

Energenics Systems, Inc.'s request was dated December 28, 1982. The surrender of the permit for Project No. 5905 is in the public interest and is accepted as of the date of issuance of this notice.

**Kenneth F. Plumb,**  
*Secretary.*

[FR Doc. 83-3361 Filed 2-7-83; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. ID-2031-000]

#### **John L. Fraley; Application**

February 2, 1983.

The filing individual submits the following:

Take notice that on January 26, 1983, John L. Fraley filed an application for order to dismiss for want of jurisdiction or, alternatively authorization under section 305(b) of the Federal Power Act to hold the following positions:

Director, Duke Power Company  
Director, First Union Corporation  
Director, First Union National Bank

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 C.F.R. Sections 385.211, 385.214). All such motions or protests should be filed on or before February 14, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the



Commission and are available for public inspection.

**Kenneth F. Plumb,**  
*Secretary.*

[FR Doc. 83-3349 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

**[Docket No. CP83-164-000]**

**Gas Transport, Inc.; Application**

February 3, 1983.

Take notice that on January 20, 1983, Gas Transport, Inc. (Applicant), 109 Broad Street, Lancaster, Ohio 43130, filed in Docket No. CP83-164-000 an application pursuant to Section 7 of the Natural Gas Act and Subpart F of Part 157 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the construction, acquisition, and operation of certain facilities and the transportation and sale of natural gas and for permission and approval to abandon certain facilities and service, all as more fully set forth in the application on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 24, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to

intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

**Kenneth F. Plumb,**  
*Secretary.*

[FR Doc. 83-3362 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

**[Project No. 5095-001]**

**Homestake Consulting and Investments, Inc.; Surrender of Preliminary Permit**

February 2, 1983.

Take notice that Homestake Consulting and Investments, Inc., Permittee for the proposed Bond Creek Hydroelectric Project No. 5095, has requested that its preliminary permit be terminated. The permit was issued on May 13, 1982, and would have expired October 31, 1983. The project would have been located on the Bond Creek in Lake County, Montana.

The Permittee filed its request on November 26, 1982, and the surrender of the preliminary permit for Project No. 5095 is deemed accepted as of the date of this notice.

**Kenneth F. Plumb,**  
*Secretary.*

[FR Doc. 83-3363 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

**[Docket Nos. CP83-134-000, CP83-134-001, CP83-135-000 and CP83-135-001]**

**Houston Pipe Line Co. and Oasis Pipe Line Co.; Applications**

February 2, 1983.

Take notice that on December 16, 1982, Houston Pipe Line Company (Houston), P.O. Box 1188, Houston, Texas 77001, in Docket Nos. CP83-134-000 and CP83-134-001 and Oasis Pipe Line Company (Oasis), P.O. Box 1188, Houston, Texas 77001, in Docket Nos. CP83-135-000 and CP83-135-001, both intrastate pipelines, filed applications, as amended, pursuant to Section 311(a)(2) of the Natural Gas Policy Act of 1978 and Section 284.127 of the Commission's Regulations for authority to transport certain quantities of natural gas for Natural Gas Pipeline Company of America (Natural), an interstate pipeline, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Houston and Oasis state that they are currently engaged in the transportation of natural gas on behalf of Natural pursuant to transportation agreements both dated February 15, 1979 (1979 Agreements). It is stated that the service under the 1979 Agreements commenced April 5, 1979, for an initial term of two years under the self-implementing provisions of Section 284.122(a) of the Commission's Regulations and was extended for a period of two years commencing April 5, 1981 pursuant to Section 284.125 of the Commission's Regulations.<sup>1</sup> In order that the transportation service might be continued on an uninterrupted basis, Houston and Oasis have requested that the Commission issue orders pursuant to Section 284.127(b) of its Regulations authorizing a continuation of the transportation arrangements for a period of two years commencing April 5, 1983, and ending April 4, 1985.

Houston and Oasis propose to transport up to 150,000 Mcf of gas per day, or such additional daily volumes as their operating conditions shall reasonably permit, for Natural. Houston would transport Natural's volumes from a point located on Houston's pipeline facilities near Dever, Liberty County, Texas, to a point located on Oasis' pipeline facilities near Katy, Waller County, Texas; Oasis would then transport Natural's volumes to the interconnection of Oasis' and Natural's pipeline facilities in Ward County, Texas, and at the interconnection of Oasis' and El Paso Natural Gas Company's facilities, Pecos County, Texas. It is stated that service would continue to be conducted under the terms and conditions of amendments to the 1979 Agreements, both dated December 10, 1982. Houston states that the other intrastate pipeline companies needed to aid it in effecting the basic transaction between Houston and Natural are Channel Industries Gas Company (Channel) and Dow Pipeline Company (Dow).

Houston states that effective April 5, 1983, Natural would pay Houston 6.0 cents per million Btu for the transportation service it performs. It is further indicated that a portion of the revenues derived from the 6.0-cent per million Btu rate would be paid by Houston to Channel and Dow. Oasis states that effective April 5, 1983, Natural would pay Oasis 12.39 cents per

<sup>1</sup> See Docket No. ST80-68. Houston's initial full report and amended initial full report were filed on May 7, 1979, and December 20, 1979, respectively. Houston's extension report was filed on December 22, 1980.

million Btu for the transportation service Oasis performs.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 23, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,  
*Secretary.*

[FR Doc. 83-3348 Filed 2-7-83; 8:45 am]  
BILLING CODE 6717-01-M

[Docket Nos. CP83-140-000 and CP83-140-001]

#### **Kansas-Nebraska Natural Gas Company, Inc.; Application**

February 2, 1983.

Take notice that on December 27, 1982, Kansas-Nebraska Natural Gas Company, Inc. (Applicant), P.O. Box 15265, Lakewood, Colorado 80215, filed in Docket No. CP 83-140-000 an application as amended January 10, 1983, in Docket No. CP83-140-001 pursuant to Section 7 of the Natural Gas Act and Subpart F of Part 157 of the Commission Regulations for a blanket certificate of public convenience and necessity authorizing certain construction, acquisition and operation of facilities and the transportation and sale of natural gas and permission and approval to abandon certain facilities and service, all as more fully set forth in the application, as amended, on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said application should on or before February 23, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will

not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval to abandon are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,  
*Secretary.*

[FR Doc. 83-3350 Filed 2-7-83; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. ID-1994-002]

#### **Darrow R. McLeod; Application**

February 2, 1983.

The filing individual submits the following:

Take notice that on January 24, 1983, Darrow R. McLeod filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President, Engineering and Division Administration—Central Vermont Public Service Corporation.

Vice President—Central Vermont Public Service Corporation—Bradford Hydroelectric, Inc.

Vice President—Central Vermont Public Service Corporation—East Barnet Hydroelectric, Inc.

Vice President, Engineering and Division Administration—Connecticut Valley Electric Company, Inc.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of

Practice and Procedure (18 CFR Sections 385.211, 385.214). All such motions or protests should be filed on or before February 14, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
*Secretary.*

[FR Doc. 83-3345 Filed 2-7-83; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. ER83-173-000]

#### **Metropolitan Edison Co.; Order Accepting for Filing and Suspending Rates, Denying Motion for Summary Disposition, Noting Interventions, and Establishing Hearing and Price Squeeze Procedures**

February 2, 1983.

On December 3, 1982, Metropolitan Edison Company (Met-Ed) tendered for filing increased rates for full requirements service to four tariff customers and for partial requirements and wheeling service to Allegheny Electric Cooperative, Inc. (Allegheny).<sup>1</sup> Met-Ed proposes a two-part rate increase consisting of Step I rates which would increase revenues by approximately \$1.7 million (27%) during the calendar 1983 test period, and Step II rates which would further increase revenues by approximately \$150,000. The company has requested effective dates of February 1 and February 2, 1983, for the Step I and Step II rates, respectively. The company also states that, if the Commission determines that the Step II rates should be suspended for only one day, the Step I rate increase should be deemed withdrawn.

Notice of Met-Ed's filing was published in the Federal Register, with comments due on or before December 30, 1982. The Borough of Kutztown, Pennsylvania (Kutztown) filed a timely motion to intervene, protest, and request for a five month suspension. In support of its position, Kutztown objects to the inclusion of the Three Mile Island nuclear plant in rate base and to the recovery of expenses associated with the nuclear units. Kutztown also raises various cost of service issues<sup>2</sup> and

<sup>1</sup> See Attachment A for rate schedule designations.

<sup>2</sup> These issues include: (1) Whether "nuclear fuel in process" should be included in rate base; (2) the appropriate rate of return on equity; (3) stated O&M expenses and spent nuclear fuel expenses; and (4) purportedly excessive wheeling rates.

alleges that the proposed rates are discriminatory and will create a price squeeze.

Allegheny Electric Cooperative, Inc. (Allegheny) also filed a timely protest and motion to intervene. Allegheny cites a number of cost of service issues,<sup>3</sup> requests a five month suspension, and seeks summary disposition on the issue of whether nuclear fuel in process should be included in rate base. On January 14, 1983, Met-Ed filed a response to the protests and motions to intervene filed by Allegheny and Kutztown. Met-Ed opposes the requests for a five month suspension.

#### Discussion

Under Rule 214(c)(1) of the Commission's Rules of Practice and Procedure (18 CFR 385.214), the timely motions to intervene serve to make Kutztown and Allegheny parties to this proceeding absent opposition within 15 days of their pleadings.

With respect to Allegheny's motion for summary disposition, we note that in *Jersey Central Power and Light Company*, Docket No. ER82-426-000, (May 28, 1982), the Commission summarily held that nuclear fuel in process (Account No. 120.1) should not be included in rate base. On rehearing, the Commission changed its ruling because, under Account No. 120.2 of the Uniform System of Accounts (nuclear fuel materials and assemblies), once nuclear fuel assemblies are delivered to the reactor site, the investment is properly includable in rate base. In that case, the amount at issue represented completed fuel assemblies ready for use in the next refueling but being stored at the fabrication plant rather than at the reactor site. But for this technical distinction, the nuclear fuel would be includable in rate base under Account No. 120.2. Therefore, the Commission in its order on rehearing in *Jersey Central* stated that the issue of the proper accounting and ratemaking treatment of fuel assemblies raised issues of law and fact, more appropriately resolved at hearing. Because *Jersey Central* and Met-Ed are both operating companies of General Public Utilities Corporation and share ownership of nuclear facilities and related fuel assemblies, we find that the issue of inclusion of nuclear fuel in

process in rate base raises issues which should be explored at hearing.

Therefore, we shall deny summary disposition of this issue.

Our preliminary review of Met-Ed's filing indicates that the proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept the rates for filing and suspend them as ordered below.

In *West Texas Utilities Company*, Docket No. ER82-23-000, 18 FERC ¶61,189 (1982), the Commission noted that rate filings would ordinarily be suspended for one day where preliminary review indicates that the proposed increase may be unjust and unreasonable but may not generate substantially excessive revenues, as defined in *West Texas*. However, where it appears that the rates may be substantially excessive, we will suspend for the maximum period. Our preliminary review indicates that Met-Ed's proposed Step I and Step II rates as applied to the full requirements customer class may not yield substantially excessive revenues. Under these circumstances, we shall suspend the Step II rates for the full requirements customers for one day to become effective, subject to refund, on February 3, 1983. Pursuant to Met-Ed's request, its proposed Step I rates for the full requirements customers shall be deemed withdrawn. With respect to Met-Ed's partial requirements and transmission rates for Allegheny preliminary review suggests that, while the Step I rates may not yield substantially excessive revenues, the Step II rates may be substantially excessive. Accordingly, we shall suspend Met-Ed's Step I and II rates for service to Allegheny for one day and five months, respectively, to become effective on February 3, 1983, and July 3, 1983, subject to refund.

In light of Kutztown's price squeeze allegations, we shall institute price squeeze procedures and phase those procedures in accordance with the Commission's policy and practice established in *Arkansas Power and Light Company*, Docket No. ER79-339 (August 6, 1979).

#### The Commission Orders

(A) Met-Ed's proposed Step I rates for its full-requirements customers are deemed withdrawn and its proposed Step II rates for the full requirements customers are accepted for filing and suspended for one day from sixty days

after filing, to become effective on February 3, 1983, subject to refund.

(B) Met-Ed's proposed Step I and Step II rates as they apply to Allegheny are accepted for filing and suspended for one day and five months respectively, to become effective, subject to refund, on February 3, 1983, and July 3, 1983.

(C) Allegheny's motion for summary disposition is hereby denied.

(D) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR, Chapter I), a public hearing shall be held concerning the justness and reasonableness of Met-Ed's rates.

(E) The Commission Staff shall serve top sheets in this proceeding within (10) days of the date of this order.

(F) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) days after service of top sheets in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. The presiding judge is authorized to establish procedural dates and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(G) The Commission hereby orders initiation of price squeeze procedures and further orders that this proceeding be phased so that the price squeeze procedures begin after issuance of a Commission's opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The price squeeze portion of this case shall be governed by the procedures set forth in section 217 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(H) The Secretary shall promptly publish this order in the **Federal Register**.

By the Commission.  
Kenneth F. Plumb,  
Secretary.

<sup>3</sup>The matters addressed by Allegheny include: (1) Amortization or regulatory expense; (2) allocation of TMI Units 1 and 2; (3) exclusion of taxes associated with AFC from deferred income tax Account 410; (4) exclusion of the demand portion of purchased power used to replace TMI-2 energy; (5) cash working capital; and (6) rate of return.

**ATTACHMENT A.—METROPOLITAN EDISON  
COMPANY TARIFF AND RATE SCHEDULE DES-  
IGNATIONS**

[Docket No. ER83-173-000]

Designation	Description
Met-Ed FPC Electric Tariff Original Volume No. 1	
(1) Seventh Revised Sheet No. 13 (Supersedes Sixth Revised Sheet No. 13).	Step II—Rate RP. Effective: Feb. 3, 1983.
(2) Seventh Revised Sheet No. 15 (Supersedes Sixth Revised Sheet No. 15).	Step II—Rate RT. Effective: Feb. 3, 1983
Supplements for Service to Allegheny Electric Cooperative	
(3) Supplement No. 24 to Rate Schedule FPC No. 43 (Supersedes Supplement No. 22).	Step I—Supplemental Power and Energy Rates.
(4) Supplement No. 25 to Rate Schedule FPC No. 43 (Supersedes Supplement No. 23).	Step I—Wheeling Rates.
(5) Supplement No. 26 to Rate Schedule FPC No. 43 (Supersedes (3) above).	Step II—Supplemental Power and Energy Rates.
(6) Supplement No. 27 to Rate Schedule FPC No. 43 (Supersedes (4) above).	Step II—Wheeling Rates.

[FR Doc. 83-3384 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP 74-316-006]

**Michigan Wisconsin Pipe Line Co.;  
Petition To Amend**

February 2, 1983.

Take notice that on December 22, 1982, Michigan Wisconsin Pipe Line Company (Mich Wis), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP74-316-006 a petition to amend the order issued July 7, 1977,<sup>1</sup> as amended, pursuant to Section 7(c) of the Natural Gas Act so as to authorize the maximum allowable operating pressure of an existing 15.3-mile 24-inch pipeline, the South Chester 15 Transmission Line, to be increased from 1,050 psig to 1,150 psig, all as more fully set forth in the petition to amend which is on file with the Commission and open to public inspection.

Mich Wis proposes herein to uprate the maximum allowable operating pressure in the transmission line which connects the South Chester Field, Otsego County, Michigan, to Great Lakes Gas Transmission Company's (Great Lakes) system. the pipe which Mich Wis had proposed to install for the South Chester transmission line was comprised of 16 miles of 24-inch O.D. x 0.324-inch W.T. pipe with a design pressure of 1,053 psig and a maximum allowable operating pressure of 1,050

psig. It is stated that Mich Wis installed 15.3 miles of a higher grade pipe, 24-inch O.D. x 0.384-inch W.T., with a pipe design pressure of 1,152 psig, in compliance with the certificate. Mich Wis now proposes to increase the maximum allowable operating pressure of the South Chester transmission line from 1,050 psig to 1,150 psig.

Mich Wis states that the heavier walled pipe was installed to provide greater operating flexibility in view of the subsequent development of the Central Charlton I Storage Field, which is located approximately 12 miles north-east of the South Chester 15 Field and is connected to the South Chester transmission line at the South Chester 15 Field. Accordingly, the South Chester transmission line is now utilized for handling the injection and withdrawal requirements for both the South Chester 15 and Central Charlton I Gas Fields, it is explained.

The withdrawal rate from Central Charlton I when added to the South Chester 15 rate has the potential to increase the flow rate in the South Chester transmission line from a design level of service of 400,000 Mcf of gas per day to approximately 725,000 Mcf of gas per day, it is asserted. While the existing maximum operating pressure of 1,050 psig is sufficient under normal operating conditions, there is limited operating flexibility at the potential withdrawal rates from the two fields, Mich Wis asserts. It is stated that increasing the maximum operating pressure to 1,150 psig would provide the desirable operating flexibility. The South Chester transmission line, it is submitted, has been constructed, tested and qualified to operate at 1,150 psig and can be uprated at no additional cost.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before Feb. 23, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person

wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 83-3351 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA83-1-5-001]

**Midwestern Gas Transmission Co.;  
Revised Rate Filing**

February 3, 1983.

Take notice that on January 21, 1983, Midwestern Gas Transmission Company (Midwestern) tendered for filing Substitute Fifth Revised Sheet No. 5 to Original Volume No. 1 of its FERC Gas Tariff, to be effective January 1, 1983.

Midwestern states that the sole purpose of the revised tariff sheets is to reflect a revision in its Southern System Current Gas Rate Adjustment to reflect the reduction in the rates of Tennessee Gas Pipeline Company, a Division of Tenneco Inc., which will become effective January 1, 1983.

Midwestern states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before February 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**

*Secretary.*

[FR Doc. 83-3309 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

<sup>1</sup> This proceeding was commenced before the FPC. By joint regulation of October 1, 1977 (10 CFR 1000.1), it was transferred to the Commission.

**[Project No. 5493-001]****Modesto Irrigation District; Surrender of Preliminary Permit**

February 2, 1983.

Take notice that Modesto Irrigation District, Permittee for the proposed West Walker River Project No. 5493, has requested that its preliminary permit be terminated. The Preliminary Permit was issued on June 7, 1982, and would have expired on June 30, 1985. The project would have been located on the West Walker River near Bridgeport, in Mono County, California.

The Permittee filed its request on December 13, 1982, and the surrender of its permit for Project No. 5493 is deemed effective as of the date of this notice.

**Kenneth F. Plumb,**  
*Secretary.*

[FR Doc. 83-3386 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

**[Docket No. GT83-8-001]****National Fuel Gas Supply Corp., Proposed Changes in FERC Gas Tariff**

February 2, 1983.

Take notice that on January 24, 1983, National Fuel Gas Supply Corporation (National Fuel) tendered for filing the following proposed changes in its FERC Gas Tariff, to be effective December 30, 1982:

**First Revised Volume No. 2**

First Revised Sheet No. 1  
Second Revised Sheet No. 1a  
Fifth Revised Sheet No. 1b

National Fuel is filing these tariff sheets to reflect the effective date of the Commission's order in Docket No. GT83-8-000, which approved National Fuel's request for cancellation of various rate schedules in Volume No. 2 of its FERC Gas Tariff.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**  
*Secretary.*

[FR Doc. 83-3310 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

**[Docket Nos. RP80-11-010, et al.]****Natural Gas Pipe Line Co. of America, et al.; Filing of Pipeline Refund Reports and Refund Plans**

February 3, 1983

Take notice that the pipelines listed in

the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before February 17, 1983. Copies of the respective filings are on file with the Commission and available for public inspection.

**Kenneth F. Plumb,**  
*Secretary.*

**APPENDIX**

Filing date	Company	Docket No.	Type filing
12/30/82	Natural Gas Pipe Line Co. of America.....	RP80-11-010.....	Report.
1/19/83	Tennessee Gas Pipeline Co.....	RP81-44-007.....	Report.
1/20/83	Sea Robin Pipeline Co.....	RP80-55-005.....	Report.
1/20/83	United Gas Pipe Line Co.....	TA82-2-11-004.....	Report.
1/21/83	Lawrenceburg Gas Transmission Corp.....	RP82-29-003.....	LFUT report.
1/24/83	Valero Interstate Transmission Co.....	RP81-60-006.....	Report.
1/27/83	Florida Gas Transmission Co.....	RP72-136-010.....	Report.

[FR Doc. 83-3311 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

**[Docket No. RP77-98-013]****Natural Gas Pipeline Company of America; Change in Rates**

February 3, 1983.

Take notice that on January 21, 1983, Natural Gas Pipeline Company of America (Natural) submitted for filing as part of its FERC Gas Tariff, revised tariff sheets to set out the revised rate levels for the period December 1, 1977 through November 30, 1978, to reflect the effect of the final Commission order in Opinion No. 108-A issued November 23, 1982, establishing a 12.8% return on equity for the Docket No. RP77-98 settlement rates. The filing was made in compliance with Article IV of the Docket No. RP77-98 settlement.

A copy of this filing has been mailed to Natural's jurisdictional customers and to interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the requirements of Rules 211 and 214 of the

Commission's Rules of Practice and Procedure. All such motions or protests must be filed on or before February 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**  
*Secretary.*

[FR Doc. 83-3312 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

**[Docket No. TA83-1-26-000]****Natural Gas Pipeline Company of America; Change in Rates**

February 2, 1983.

Take notice that on January 20, 1983, Natural Gas Pipeline Company of America (Natural) submitted for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the below listed tariff sheets to be effective March 1, 1983:

Forty-ninth Revised Sheet No. 5  
Seventh Revised Sheet No. 5C  
Seventh Revised Sheet No. 5D

Natural states the purpose of the filing is to reflect rate adjustments under the PGA and incremental pricing sections of its tariff. The overall effect of the filed for adjustments on Natural's DMQ-1 rates is a decrease of \$0.07 in the demand component and an increase of 28.79¢ in the commodity component. Appropriate adjustments were also made to Natural's other sales rate schedules. The annualized revenue impact of the filed for adjustments will approximate \$226 million. Of this amount \$190 million is related to current gas cost increases and \$36 million to recover the balance in the deferred gas cost account.

Sheet Nos. 5C and 5D reflect no projected incremental pricing surcharges (MSAC) for the six month period beginning March 1, 1983. None of Natural's offsystem customers have reported MSAC's.

Natural requests any additional waivers of the Commission's regulations to the extent, if any, required to put the proposed tariff sheets into effect on March 1, 1983.

A copy of this filing has been mailed to Natural's jurisdictional customers and to interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the requirements of Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed on or before February 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
*Secretary.*

[FR Doc. 83-3313 Filed 2-7-83; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. RP82-114-000]

**Northwest Central Pipeline Corp.  
(Formerly Cities Service Gas Co.);  
Informal Settlement Conference**

February 2, 1983.

Take notice that an informal settlement conference in the above-captioned docket will be convened on

Tuesday and Wednesday, February 10 and 11, 1983, at 10:00 a.m., at the offices of the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in a Commission meeting room to be announced.

All interested parties and Staff will be permitted to attend.

Kenneth F. Plumb,  
*Secretary.*

[FR Doc. 83-3314 Filed 2-7-83; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. CP83-136-000]

**Northwest Pipeline Corp.; Application**

February 2, 1983.

Take notice that on December 21, 1982, Northwest Pipeline Corporation (Northwest), P.O. Box 1562, Salt Lake City, Utah 84108, filed in Docket No. CP83-136-000 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale and delivery of natural gas to certain of its existing customers pursuant to a proposed new rate schedule for a limited term of one year, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Northwest proposes to sell and deliver up to 1,500,000 therms of natural gas per day pursuant to a new interruptible rate schedule to be designated Rate Schedule I-2 for a limited term of one year from the effective date of Rate Schedule I-2. Northwest states that the volumes of natural gas proposed for sale pursuant to Rate Schedule I-2 are available to all of Northwest's customers purchasing natural gas for resale pursuant to Northwest's Rate Schedules ODL-1 and DS-1.

It is stated that the Rate Schedule I-2 gas available to Northwest's distributors each day would be dependent upon Northwest's ability to deliver domestic supplies in excess of those necessary to meet existing requirements. It is estimated that the daily deliveries may be up to \$1,500,000 therms per day. The daily volumes would be available to each distributor in proportion to each distributor's firm contract demand under Rate Schedules ODL-1 and DS-1. If any Rate Schedule I-2 customer does not require any or all of the available daily volumes, those volumes not required would be offered to the other Rate Schedule I-2 customers, it is explained.

The volumes of gas proposed for sale under Rate Schedule I-2 would, it is asserted, be sold by Northwest's

distribution customers to specified industrial and/or institutional buyers. Northwest states that it is intended that the Rate Schedule I-2 rate be competitive with alternate energy costs so that industrial/institutional end-users with alternate fuel capacity would use natural gas as their primary source of energy. It is stated that the sale of natural gas as proposed under the I-2 incentive rate schedule would be made to Northwest's resale customers for sale to their industrial/institutional purchasers at the proposed incentive rate only for those volumes of natural gas purchased by the end-users which exceed the volumes of natural gas purchased by such end-users during the 12-month period ending November 30, 1982.

It is stated that the increased cost of natural gas at the burner tip has resulted in reduced industrial/institutional demands in Northwest's market area with a concomitant increase in Northwest's take-or-pay responsibility under the terms of its domestic gas purchase contracts. Northwest indicates that the 120,000,000 therms proposed for sale herein is based on the volume of domestic natural gas with Northwest has heretofore paid for (6,352,348 Mcf) and not taken plus the volumes of domestic take-or-pay which Northwest estimates that it could accrue during 1982 and 1983 without the proposed incentive rate schedule. Sales of an additional annual quantity of 120,000,000 therms would reduce the aforementioned take-or-pay obligation and result in an annualized cost reduction to Northwest's customers of approximately \$13.6 million during the 12-month term of the proposed sale, it is submitted.

This cost reduction would be accomplished by crediting the revenues received from such sale through Northwest's normal purchased gas cost adjustment process and would be reflected in its semiannual PGAC filing as provided in Northwest's proposed Rate Schedule I-2, it is asserted.

Northwest proposes to charge \$3.60 per therm for each therm sold pursuant to Rate Schedule I-2. The rate is subject to change each April and October, coincident with Northwest's semiannual purchased gas cost rate adjustment, it is explained. The proposed semiannual rate adjustment is intended to maintain a rate pursuant to Rate Schedule I-2 sufficiently competitive with alternate fuels to encourage the increased sales of natural gas in Northwest's industrial/institutional market sectors.

Any person desiring to be heard or to make any protest with reference to said



application should on or before February 23, 1983, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Northwest to appear or be represented at the hearing.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 83-3352 Filed 2-7-83; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. RP82-125-005]

**Tennessee Gas Pipeline Co.; Revised Rate Filing**

February 3, 1983.

Take notice that on January 21, 1983, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), tendered for filing certain revised tariff sheets in its FERC Gas Tariff to be effective on February 1, 1983, in lieu of the tariff sheets originally filed in Docket No. RP82-125, as follows:

*Original Volume No. 1*

Eighth Revised Sheet Nos. 20 and 22  
Seventh Revised Sheet No. 21  
Substitute Second Revised Sheet No. 75

*Sixth Revised Volume No. 2*

Substitute First Revised Sheet No. 299C8, 299C7, 299D6, 299D7, 299E8, 299E9, 299F7, 299G6, 299G7, 299H6, 299PP6  
Substitute Second Revised Sheet No. 299RR5  
Substitute Third Revised Sheet No. 267L, 277B, 286E, 287D, 297E, 299L10, 299V6, 299W5, 299X6, 299Y6, 299EE6, 299FF5, 299GG7, 299MM5, 299NN4, 299OO5, 299SS6, 299TT5, 299UU4  
Substitute Fourth Revised Sheet No. 266H, 267K, 268C, 267E, 288D, 289E, 290E, 291E, 292E, 299L9, 299M6, 299N5, 299Q5, 299R5  
Substitute Fifth Revised Sheet No. 274E  
Substitute Sixth Revised Sheet No. 248D  
Substitute Seventh Revised Sheet No. 141A  
Substitute Ninth Revised Sheet No. 245D  
Substitute Tenth Revised Sheet No. 76, 215  
Substitute Eleventh Revised Sheet No. 53, 54, 77  
Substitute Twelfth Revised Sheet No. 141  
Substitute Fourteenth Revised Sheet No. 11 and 12  
First Revised Sheet No. 299C8, 299C9, 299D8, 299E10, 299F8, 299G8, 299H7, 299S11, 299S12, 299SS7  
Second Revised Sheet No. 299VV4, 299WW5, 299WW6.

Tennessee states that the purpose of the revised tariff sheets is to revise the rates suspended until February 1, 1983, in this proceeding to reflect, (1) the elimination of all facilities and related costs which will not have been certificated and placed in service by December 31, 1982; (2) revisions related to advance payments claimed in rate base; (3) the Current Average Cost of Purchased Gas and certain other rate adjustments reflected in Tennessee's filing made effective on January 1, 1983, in Docket Nos. TA83-1-9 (PGA83-1, *et al.*); and (4) the deletion of its Added Volume charge from several rate schedules.

Tennessee further states that copies of the revised filing were served on all customers and affected state commissions as well as all parties to Docket No. RP82-125.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 or 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before February 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be

taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further pleading. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 83-3315 Filed 2-7-83; 8:45 am]  
BILLING CODE 6717-01-M

[Docket No. TA83-1-9-001]

**Tennessee Gas Pipeline Co., Revised Rate Filing**

February 3, 1983.

Take notice that on January 21, 1983, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), tendered for filing Second Substitute Sixth Revised Sheet No. 21 to Original Volume No. 1 of its FERC Gas Tariff, to be effective January 1, 1983.

Tennessee states that the sole purpose of the revised tariff sheets is to reflect a reduction in its surcharge for amortizing its Unrecovered Purchased Gas Account as required by the Commission's December 28, 1982 orders in *Tennessee Gas Pipeline Company*, Docket No. TA83-1-9, and *Tenneco Inc., et al.*, Docket No. IN79-3.

Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 or 214 of the Commission's Rules of Practice and Procedure. All such petitions or protests should be filed on or before February 16, 1983. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a petition to intervene in this proceeding is not required to file a further pleading. Copies of this filing are on file with the



Commission and are available for public inspection.

**Kenneth F. Plumb,**  
*Secretary.*

[FR Doc. 83-3333 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP83-43-000]

### **Transwestern Pipeline Co.; Proposed Changes in FERC Gas Tariff**

February 3, 1983.

Take notice that Transwestern Pipeline Company (Transwestern) on January 25, 1983 tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following sheet:

Third Revised Sheet No. 73.

The above listed tariff sheet was issued for the sole purpose of revising Section 19.2 B(3), *Surcharge Adjustment*, of the General Terms and Conditions of Transwestern's FERC Gas Tariff to enable the use of the balance in the PGA account as of three months prior to the Effective Date of Adjustment for determination of the Surcharge Adjustment included in Transwestern's semiannual PGA tracking filings.

On August 31, 1982 Transwestern filed Revised Second Revised Sheet No. 73 to enable Transwestern to use the balance in the PGA account as of two months prior to the Effective Date of Adjustment. By order issued September 30, 1982, in Docket No. TA83-1-42-000 and Docket No. RP82-134-000 (not consolidated), the Commission suspended and conditionally accepted Transwestern's October 1, 1982 PGA filing and Revised Second Revised Sheet No. 73 to be effective October 1, 1982. An informal conference with the Commission Staff and intervenors was held on November 23, 1982.

Transwestern agreed at the conference to revise its tariff sheet to reflect the use of the account balance three months prior to the Effective Date of Adjustment for future PGA filings.

The proposed effective date of this tariff sheet is March 1, 1983.

Copies of the filing were served on Transwestern's jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before February 16, 1983. Protests will be considered by the Commission in

determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**  
*Secretary.*

[FR Doc. 83-3334 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP82-261-003]

### **Trunkline Gas Co.; Proposed Change in FERC Gas Tariff**

February 2, 1983.

Take notice that on January 12, 1983, Trunkline Gas Company (Trunkline) tendered for filing First Revised Sheet No. 3341 and Second Revised Sheet No. 3341 to its FERC Gas Tariff, Original Volume No. 2.

Trunkline states that these changes are made to recognize changes in charges that it incurs in performing a transportation service for Panhandle Eastern Pipe Line Company (Panhandle) pursuant to its Rate Schedule T-77. In performing this service Trunkline utilizes capacity in the pipeline system of Columbia Gulf Transmission Company (Columbia Gulf).

On January 1, 1982, Columbia Gulf placed rates into effect reflecting settlement in its general rate proceeding Docket No. RP81-82. These rates are reflected in Trunkline's First Revised Sheet No. 3341. Trunkline requests an effective date of September 27, 1982 for this sheet.

On December 6, 1982, Columbia Gulf filed revised rates to be effective January 1, 1983, in its general rate filing, Docket No. RP82-119. These rates were filed in compliance with the Commission Order dated July 30, 1982. Trunkline's Second Revised Sheet No. 3341 reflects these rates. Trunkline requests an effective date of January 1, 1983 for this sheet.

A copy of this filing has been served on Panhandle.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with the Sections 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such petitions or protests should be filed on or before February 14, 1983. Protests will be considered by the Commission in determining the appropriate action to be

taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

**Kenneth F. Plumb,**  
*Secretary.*

[FR Doc. 83-3335 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4648-001]

### **Weaverville Community Services District; Surrender of Preliminary Permit**

February 2, 1983.

Take notice that Weaverville Community Services District, Permittee for the proposed East Weaver Creek Project No. 4648, has requested that its preliminary permit be terminated. The permit was issued on September 17, 1981, and would have expired August 31, 1983. The project would have been located on the East Weaver Creek in Trinity County, California.

The Permittee filed its request on January 13, 1983, and the surrender of the preliminary permit for Project No. 4648 is deemed accepted as of the date of this notice.

**Kenneth F. Plumb,**  
*Secretary.*

[FR Doc. 83-3366 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ID-2030-000]

### **Wesley W. Von Schack; Application**

February 2, 1983.

The filing individual submits the following:

Take notice that on January 24, 1983, Wesley W. Von Schack filed an application pursuant to Section 305(b) of the Federal Power Act to hold the following positions:

Vice President Finance—Central Vermont Public Service Corporation  
Vice President Finance—Connecticut Valley Electric Company, Inc.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR Sections 385.211, 385.214). All such motions or protests should be filed on or before February 14, 1983. Protests will be considered by the Commission in

determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,  
Secretary.

[FR Doc. 83-3356 Filed 2-7-83; 8:45 am]

BILLING CODE 6717-01-M

## FEDERAL HOME LOAN BANK BOARD

### Manning Savings & Loan Association; Appointment of Receiver

Notice is hereby given that pursuant to the authority contained in Section 406(c)(1)(B) of the National Housing Act, as added by the Garn-St Germain Depository Institutions Act of 1982, Pub. L. No. 97-320, 96 Stat. 1469, 1482, Section 122(d), to be codified at 12 U.S.C. 1729(c)(1)(B), the Federal Home Loan Bank Board appointed the Federal Savings and Loan Insurance Corporation as sole Receiver for Manning Savings and Loan Association, Chicago, Illinois, effective February 3, 1983.

Dated: February 3, 1983

J. J. Finn,  
Secretary.

[FR Doc. 83-3332 Filed 2-7-83; 8:45 am]

BILLING CODE 6720-01-M

## FEDERAL MARITIME COMMISSION

### Agreement Filed

The Federal Maritime Commission hereby gives notice that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and may request a copy of each agreement and the supporting statement at the Washington, D.C. Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit protests or comments on each agreement to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, within 20 days after the date of the Federal Register in which this notice appears. The requirements for comments and protests are found in § 522.6 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the

Commission regarding a pending agreement.

Any person filing a comment or protest with the Commission shall, at the same time, deliver a copy of that document to the person filing the agreement at the address shown below.

Agreement No.: 9902-15.

Title: Euro-Pacific Joint Service Agreement.

Parties: Hapag-Lloyd A.G., Compagnie Generale Maritime and Intercontinental Transport (ICT) B.V.

Synopsis: The Joint Service would authorize the service to transport intermodal cargo to/from United States ports and inland points in Arizona, California, Colorado, Hawaii, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming via ports in California, Oregon and Washington, and to/from European ports and inland points and to/from ports and points in Canada, Mexico, Central America, the East Coast of South America and the West Indies.

Filing Agent: Edward Schmeltzer, Esquire, Schmeltzer, Aptaker & Sheppard, P.C., 1800 Massachusetts Avenue, NW., Washington, D.C. 20036.

By Order of the Federal Maritime Commission.

Dated: February 3, 1983.

Francis C. Hurney,  
Secretary.

[FR Doc. 83-3265 Filed 2-7-83; 8:45 am]

BILLING CODE 6730-01-M

### Agreements Filed; Correction

The synopsis for Federal Maritime Commission Agreement No. 10464, which was published on January 26, 1983 (48 FR 3654) should have read as follows: Synopsis: The joint venture is to operate a service between Canada/U.S. Great Lakes, Atlantic and Gulf Ports, North America to South/East Africa.

Dated: February 3, 1983.

Francis C. Hurney,  
Secretary.

[FR Doc. 83-3289 Filed 2-7-83; 8:45 am]

BILLING CODE 6730-01-M

### Trans-Border Customs Service Inc. et al.; Independent Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of Shipping Act, 1916(75 Stat. 522 and 46 U.S.C. 841(c)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573:

Americargo international, Inc., 830 Supreme Drive, P.O. Box 823, Bensenville, IL 60106, Officers: Robert H. Fates, stockholder, Joseph I. Naso, President/Director/Stockholder, Sheila M. Collings

By the Federal Maritime Commission.  
Dated: February 3, 1983.

Francis C. Hurney,  
Secretary.

[FR Doc. 83-3270 Filed 2-7-83; 8:45 am]

BILLING CODE 6730-01-M

### Meyer Line Inc. and Finnlincs Ltd.; Cancellation of Agreement No. 9680

Agreement No. 9680, approved January 29, 1968, provides for the interchange of empty cargo containers and/or related equipment by the parties in their operations in the trades between United States North Atlantic ports and ports in Europe.

A review of Commission records discloses that neither Meyer Line Inc. nor Finnlincs Ltd. advertise a service or maintain a tariff in the agreement trade, nor is the Commission able to identify an address at which official inquiries and correspondence can be delivered to the parties. Therefore, it appears that Agreement No. 9680 is no longer active and that the agreement should be terminated. Accordingly, notice is hereby given that Agreement No. 9680 will be terminated, effective 15 days following publication of this notice in the Federal Register.

Francis C. Hurney,  
Secretary.

[FR Doc. 83-3331 Filed 2-7-83; 8:45 am]

BILLING CODE 6730-01-M

### Oceanic Steamship Co., Pacific Far East Line, Inc. and Matson Navigation Co. (Matson); Cancellation of Agreement No. 9903

Agreement No. 9903, approved October 27, 1970, provided for Pacific Far East Line's (PFEL) purchase of four Oceanic Steamship Company (Oceanic) vessels and associated equipment then engaged in the North American Pacific Coast-Australasian trades. The agreement, in the form of a contract of sale, with Matson acting as guarantor of performance for Oceanic, also reflects

Oceanic's and PFEL's understanding as to the utilization and disposition of affected Oceanic employees; transfer of shoreside facilities and stores; transfer and assignment to PFEL Of Oceanic's Maritime Administration construction differential subsidy and contracts for two containerhips; and details pertaining to the "close of the contract."

As a review of Commission records discloses that there has been no agreement activity since January 1971 and that Oceanic and PFEL are no longer operating companies, the agreement will be cancelled 15 days following publication of this notice in the Federal Register.

Dated: February 3, 1983.

By Order of the Federal Maritime Commission.

Francis C. Hurney,  
Secretary.

[FR Doc. 83-3380 Filed 2-7-83; 8:45 am]

BILLING CODE 6730-01-M

#### **Port Line Ltd. and American & Australian Steamship Line; Cancellation of Agreement No. 9713**

Agreement No. 9713, approved June 24, 1968, provided for the interchange of portable tanks and/or related equipment between the parties in the trade from United States Atlantic and Gulf ports to ports in Australia and New Zealand.

As a review of Commission records discloses that neither Port Line Ltd. nor American and Australian Steamship Line advertise a service or maintain a tariff in the agreement trade, nor is the Commission able to identify an address at which official inquiries and correspondence can be delivered to the parties. Therefore, it appears that Agreement No. 9713 is no longer active and that the agreement should be terminated. Accordingly, notice is hereby given that Agreement No. 9713 will be terminated, effective 15 days following publication of this notice in the Federal Register.

Francis C. Hurney,  
Secretary.

[FR Doc. 83-3379 Filed 2-7-83; 8:45 am]

BILLING CODE 6730-01-M

#### **FEDERAL RESERVE SYSTEM**

##### **Formation of Banking Holding Companies; Center Bancorp; Inc., et al.**

The companies listed in this notice have applied for the Board's approval under section 3 (a) (1) of the Bank Holding Company Act (12 U.S.C. 1842 (a) (1)) to become bank holding companies by acquiring voting shares or

assets of a bank. The factors that are considered in acting on the applications are set forth in section 3 (c) of the Act (12 U.S.C. 1842 (c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

**A. Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Center Bancorp, Inc.*, Union, New Jersey; to become a bank holding company by acquiring 100 percent of the voting shares of The Union Center National Bank, Union, New Jersey. Comments on this application must be received not later than March 3, 1983.

**B. Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta Georgia 30303:

1. *Peoples Bancshares of Pointe Coupee Parish, Inc.*, New Roads, Louisiana; to become a bank holding company by acquiring 80 percent of the voting shares of Peoples Bank and Trust Company of Pointe Coupee Parish, New Roads Louisiana. Comments on this application must be received not later than March 3, 1983.

Board of Governors of the Federal Reserve System, February 2, 1983.

William W. Wiles,  
Secretary of the Board.

[FR Doc. 83-3256 Filed 2-7-83; 8:45 am]

BILLING CODE 6210-01-M

##### **Formation of Bank Holding Companies; Juniata Valley Financial Corp. et al.**

The companies listed in this notice have applied for the Board's approval under section 3(b)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become bank holding companies by acquiring voting shares or assets of a bank. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application may be inspected at the offices of the Board of Governors, or at the Federal Reserve Bank indicated for that application. With respect to

each application, interested persons may express their views in writing to the address indicated for that application. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

**A. Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Juniata Valley Financial Corporation*, Mifflintown, Pennsylvania; to become a bank holding company by acquiring 100 percent of the voting shares of Juniata Valley Bank, Mifflintown, Pennsylvania. Comments on this application must be received not later than March 2, 1983.

**B. Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *First Bankshares, Inc.*, Barboursville, West Virginia; to become a bank holding company by acquiring at least 80 percent of the voting shares of The First State Bank, Barboursville, West Virginia. Comments on this application must be received not later than March 2, 1983.

2. *Sterling Bancorp, Inc.*, Eleanor, West Virginia; to become a bank holding company by acquiring 80 percent of the voting shares to The Buffalo Bank, Eleanor, West Virginia. Comments on this application must be received not later than March 2, 1983.

**C. Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Merchants & Planters Bancshares, Inc.*, Montevallo, Alabama; to become a bank holding company by acquiring 100 percent of the voting shares of Merchants & Planters Bank, Montevallo, Alabama. Comments on this application must be received not later than March 1, 1983.

**D. Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Rushville Bancshares, Inc.*, Rushville, Illinois; to become a bank holding company by acquiring 80 percent of the voting shares of Rushville State Bank, Rushville, Illinois. Comments on this application must be received not later than March 2, 1983.

**E. Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Germantown Banc Corp.*, Germantown, Illinois; to become a bank holding company by acquiring at least 96 percent of the voting shares of Germantown Trust & Savings Bank, Germantown, Illinois. Comments on this application must be received not later than March 2, 1983.

2. *Peoples Commercial Services Corporation*, Senatobia, Mississippi; to become a bank holding company by acquiring 100 percent of the voting shares of the successor by merger to Peoples Bank of Senatobia, Senatobia, Mississippi. Comments on this application must be received not later than March 2, 1983.

F. *Federal Reserve Bank of Kansas City* (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Clayco Bancshares, Inc.*, Claycomo, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of Clayco State Bank, Claycomo, Missouri. Comments on this application must be received not later than March 2, 1983.

G. *Federal Reserve Bank of Dallas* (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *TransTexas Bancshares, Inc.*, Beaumont, Texas; to become a bank holding company by acquiring 80 percent of the voting shares of The First National Bank of Canton, Canton, Texas. Comments on this application must be received not later than March 2, 1983.

H. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. *Placer Bancorporation*, Roseville, California; to become a bank holding company by acquiring 100 percent of the voting shares of Placer Bank of Commerce (In Organization), Roseville, California. Comments on this application must be received not later than March 2, 1983.

Board of Governors of the Federal Reserve System, February 2, 1983.

William W. Wiles,  
Secretary of the Board.

[FR Doc. 83-3254 Filed 2-7-83; 8:45 am]  
BILLING CODE 6210-01-M

#### **Bank Holding Companies; Proposed de novo Nonbank Activities; First Alabama Bancshares; Inc., et al.**

The organizations identified in this notice have applied, pursuant to section 4 (c)(8) of the Bank Holding Company Act (12 U.S.C 1843 (c)(8)) and § 225.(b)(1)), of the Board's Regulation Y

(12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank no later than the date indicated.

A. *Federal Reserve Bank of Atlanta* (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *First Alabama Bancshares, Inc.*, Montgomery, Alabama (insurance activities; Alabama): To engage through its subsidiary, FAB Agency, Inc., in the activity of acting as an agent or broker for the sale of involuntary unemployment insurance directly related to its extensions of credit. These activities will be conducted from offices at all locations of banking subsidiaries of the applicant, throughout Alabama, serving the State of Alabama. Comments on this application must be received not later than February 23, 1983.

B. *Federal Reserve Bank of San Francisco* (Harry W. Green, Vice President) 400 Sansome Street, San Francisco, California 94120—

1. *Security Pacific Corporation*, Los Angeles, California (finance and credit life and credit accident and health insurance activities; West Virginia): To engage through its subsidiaries, Security Pacific Finance Corp. of Clarksburg, Security Pacific Finance Corp. of Huntington and Security Pacific Finance

Corp. of Martinsburg, in making or acquiring for its own account or for the account of others, loans and extensions of credit, including making consumer installment personal loans, purchasing consumer installment sales finance contracts, making loans to small businesses and other extensions of credit such as would be made by a factoring company or a consumer finance company, and acting as broker or agent for the sale of credit life and accident and health insurance. These activities would be conducted from an office of Security Pacific Finance Corp. of Beckley in Beckley, West Virginia; an office of Security Pacific Finance Corp. of Clarksburg in Clarksburg, West Virginia; and office of Security Pacific Finance Corp. of Huntington in Huntington, West Virginia; and an office of Security Pacific Finance Corp. of Martinsburg in Martinsburg, West Virginia, each serving the State of West Virginia. Comments on this application must be received not later than March 2, 1983.

Board of Governors of the Federal Reserve System, February 2, 1983.

William W. Wiles,

Secretary of the Board.

[FR Doc. 83-3255 Filed 2-7-83; 8:45 am]  
BILLING CODE 6210-01-M

#### **Bank Holding Companies; Proposed de Novo Nonbank Activities; First National Boston Corp. et al.**

The organizations identified in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.4(b)(1) of the Board's Regulation Y (12 CFR 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to these applications, interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any comment that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute,

summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

The applications may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated. Comments and requests for hearing should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than the date indicated.

**A. Federal Reserve Bank of Boston** (Richard E. Randall, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *First National Boston Corporation*, Boston, Massachusetts (factoring and commercial finance; Colorado, Kansas and New Mexico): To engage, through its indirect subsidiary, FNB Financial Company, in factoring and commercial financing activities. These activities would be conducted from an office in Denver, Colorado, serving the states of Colorado, Kansas, and New Mexico. Comments on this application must be received not later than February 23, 1983.

**B. Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The Bank of New York Company, Inc.*, New York, New York (mortgage banking activities; California): To engage, through its wholly-owned subsidiary, Arcs Mortgage, Inc., in the following activities: making loans secured by first and second mortgages on real estate consisting of one- to four-family residential properties. These activities would be conducted from offices in Bakersfield, California, with a primary service area of Kern County, California, and in Santa Maria, California, with a primary service area of Santa Barbara County, California. Comments on this application must be received not later than March 3, 1983.

**C. Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Philadelphia National Corporation*, Philadelphia, Pennsylvania (mortgage loan activities; Florida): To engage through its subsidiary, Colonial Mortgage Service Company Associates, in the origination of FHA, VA and conventional residential mortgage loans and second mortgage loans in conformance with provisions of § 225.4(a)(1) of Regulation Y. These activities would be conducted from an office in Tampa, Florida, serving the State of Florida. Comments on this

application must be received not later than March 3, 1983.

2. *Philadelphia National Corporation*, Philadelphia Pennsylvania (mortgage loans activities; California): To engage through its existing subsidiary, Colonial Associates, Inc., San Diego, California, in the origination of FHA, VA and conventional mortgage loans and second mortgage loans in conformance with the provisions of § 225.4(a)(1) of Regulation Y. These activities would be conducted from offices in Oceanside and Hayward, California, serving the State of California. Comments on this application must be received not later than March 3, 1983.

Board of Governors of the Federal Reserve System, February 2, 1983.

William W. Wiles,  
*Secretary of the Board.*

(FR Doc. 83-3257 Filed 2-7-83; 8:45 am)

BILLING CODE 6210-01-M

## DEPARTMENT OF HEALTH AND HUMAN SERVICES

### Centers for Disease Control

#### Annual Reports; Availability of Filing

Notice is hereby given that pursuant to Section 13 of Pub. L. 92-463 (5 U.S.C. Appendix I), the fiscal year 1982 annual reports for the following Federal advisory committees utilized by the Centers for Disease Control have been filed with the Library of Congress:

Mine Health Research Advisory Committee, Safety and Occupational Health Study Section

Copies are available to the public for inspection at the Library of Congress, Newspaper and Current Periodical Reading Room, Room 1026, Thomas Jefferson Building, Second Street and Independence Avenue, SE., Washington, D.C. (telephone: 202/287-6310). Additionally, on weekdays between 9:00 a.m. and 4:30 p.m. copies will be available for inspection at the Department of Health and Human Services, Department Library, HHS North Building, Room 1436, 300 Independence Avenue, SW., Washington, D.C. (telephone: 202/245-6791).

Dated: January 31, 1983.

William C. Watson, Jr.,  
*Acting Director, Centers for Disease Control.*

(FR Doc. 83-3338 Filed 2-7-83; 8:45 am)

BILLING CODE 4160-16-M

## Food and Drug Administration

[Docket No. 82N-0143]

### Assessment of the Economic Impacts of the OTC Drug Review Process; Availability

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing the availability of an assessment of the economic impacts of the over-the-counter (OTC) drug review process.

**ADDRESS:** Written comments and requests for a copy of the assessment to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** William E. Gilbertson, National Center for Drugs and Biologics (HFN-510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

**SUPPLEMENTARY INFORMATION:** This document announces the availability of an assessment of the economic impacts of the OTC drug review process. The assessment has been prepared to determine whether the economic effects of the OTC drug review process, as a whole, are sufficient to warrant a Regulatory Impact Analysis (as specified in Executive Order 12291) or a Regulatory Flexibility Analysis (as required by the Regulatory Flexibility Act, Pub. L. 96-354).

In 1972, FDA established procedures for the conduct of the OTC drug review (21 CFR Part 330). In accordance with these procedures, as amended, the agency now is issuing proposed and final regulations to establish monographs for numerous individual therapeutic categories of the OTC drug products. These actions by the agency affect the marketability of thousands of OTC drug products. To determine the economic consequences of these actions, FDA has prepared a document entitled "Assessment of the Economic Impacts of the OTC Drug Review Process." This assessment evaluates the economic effects (costs) of any required labeling, reformulation, and/or testing of OTC drug products as a direct result of the OTC drug review process. The assessment examines the economic impact of the establishment of a monograph for any particular therapeutic class of OTC drugs. The assessment demonstrates that the review process in its entirety will not have a "major impact" as defined in

Executive Order 12291, and probably will not have a "significant economic impact on a substantial number of small entities" as defined in the Regulatory Flexibility Act. The assessment concludes that any single monograph of the more than 60 planned over the next five years should be presumed to have neither kind of impact except in the event that interested persons present specific evidence to the contrary.

A copy of the assessment is available for public examination between 9 a.m. and 4 p.m., Monday through Friday, in the Dockets Management Branch. Requests for single copies of the assessment may be submitted to the Dockets Management Branch and should identify the assessment with the docket number found in brackets in the heading of this document.

Interested persons may, on or before June 8, 1983, submit written comments on the assessment to the Dockets Management Branch (address above). Interested persons will be given further opportunity to comment on the economic impacts of the OTC drug review in the context of each individual rule as it is published. Such comments will be considered in determining whether further amendments to, or revisions of, the assessment are warranted. Three copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. The assessment and received comments may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday, except holidays.

Dated: February 1, 1983.

Mark Novitch,

Deputy Commissioner of Food and Drugs.

[FR Doc. 83-3157 Filed 2-7-83; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 83M-0022]

#### Pharmacia Inc.; Premarket Approval of Healon®

**AGENCY:** Food and Drug Administration.  
**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is announcing its approval of the application for premarket approval under the Medical Device Amendments of 1976 of Healon® sponsored by Pharmacia, Inc., Piscataway, NJ. After reviewing the recommendation of the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices

Panel, FDA notified the sponsor that the application was approved because the device had been shown to be safe and effective for use as recommended in the submitted labeling.

**DATE:** Petitions for administrative review by March 10, 1983.

**ADDRESS:** Requests for copies of the summary of safety and effectiveness data and petitions for administrative review may be sent to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

**FOR FURTHER INFORMATION CONTACT:** Charles Kyper, Office of Medical Devices (HFK-402), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7445.

**SUPPLEMENTARY INFORMATION:** On July 7, 1981, Pharmacia, Inc., Piscataway, NJ, submitted to FDA an application for premarket approval of Healon® (a viscoelastic preparation of a purified high-molecular weight fraction of sodium hyaluronate) for use as a surgical aid in glaucoma filtration, corneal transplant, cataract extraction, intraocular lens implantation, and retinal attachment surgery. The application was reviewed by the Ophthalmic Device Section of the Ophthalmic; Ear, Nose, and Throat; and Dental Devices Panel, an FDA advisory committee, which recommended approval of the application. On January 14, 1983, FDA approved the application by a letter to the sponsor from the Associate Director for Device Evaluation of the Office of Medical Devices.

A summary of the safety and effectiveness data on which FDA's approval is based is on file in the Dockets Management Branch (address above) and is available upon request from that office. A copy of all approved final labeling is available for public inspection at the Office of Medical Devices—contact Charles Kyper (HFK-402), address above. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

#### Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition under section 515(g) of the act (21 U.S.C. 360e(g)) for administrative review of FDA's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the

application and FDA's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration of FDA action under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish notice of its decision in the *Federal Register*. If FDA grants the petition, the notice will state the issues to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before March 10, 1983, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: February 1, 1983.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 83-3158 Filed 2-7-83; 8:45 am]

BILLING CODE 4160-01-M

#### Psychopharmacologic Drugs Advisory Committee; Clarification of Meeting Agenda

**AGENCY:** Food and Drug Administration.

**ACTION:** Notice.

**SUMMARY:** The Food and Drug Administration (FDA) is republishing the agenda portion of the notice announcing a meeting of the Psychopharmacologic Drugs Advisory Committee scheduled for February 24 and 25, 1983. The meeting was announced in the *Federal Register* of January 14, 1983 (48 FR 1825).

**FOR FURTHER INFORMATION CONTACT:** Frederick J. Abramek, National Center for Drugs and Biologics (HFN-120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857 301-443-3800.

**SUPPLEMENTARY INFORMATION:** The revised agenda paragraph should read as follows:

*Open committee discussion.* The committee will discuss the following: (1)



LSD as an adjunct to psychotherapy: Is further clinical testing reasonable and safe? (2) Description of antidepressant drug effects in drug labeling: An open discussion. (3) Nomifensine Maleate (Merital®) (NDA 18-224).

Dated: February 1, 1983.

**William F. Randolph,**  
*Acting Associate Commissioner for  
Regulatory Affairs.*

[FR Doc. 83-3253 Filed 2-7-83; 8:45 am]

**BILLING CODE 4160-01-M**

## DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-83-691]

### Office of the Regional Administrator, Seattle Regional Office, Region X, Washington; Designation

**AGENCY:** Housing and Urban  
Development Department.

**ACTION:** Designation of Order of  
Succession.

**SUMMARY:** The Regional Administrator of Region X is designating officials who may serve as Acting Service Office Supervisor during the absence, disability, or vacancy in the position of Service Office Supervisor of the Boise, Idaho Service Office.

**EFFECTIVE DATE:** February 8, 1983.

**FOR FURTHER INFORMATION CONTACT:**  
Terrence R. Duvernay, Deputy Regional  
Administrator, Seattle Regional Office,  
Department of Housing and Urban  
Development, 1321 Second Avenue,  
Seattle, Washington, 98101, (206) 442-  
5330. This is not a toll free number.

**DESIGNATION:** The officers appointed to the following listed positions in Region X (Seattle) are hereby designated to serve as Acting Service Office Supervisor during the absence of the Service Office Supervisor of the Boise, Idaho Service Office, with all the powers, functions, and duties delegated or assigned to the Service Office Supervisor, provided that no officer is authorized to serve as Acting Service Office Supervisor unless all other officers whose title precede his/hers in this designation are unable to act by reason of absence, disability, or vacancy in this position.

1. Chief, Valuation Branch.
2. Chief, Architectural Branch.
3. Chief, Mortgage Credit Branch.
4. Chief, Loan Management/Property  
Disposition Branch.

(Delegation of Authority, 27 FR 4319 (1962);  
Section 9(c), Department of Housing and  
Urban Development Act, 42 U.S.C. 3531 note;  
and Interim Order II, 31 FR 815 (1966))

Dated: January 21, 1983.

**William Y. Nishimura,**  
*Regional Administrator, Seattle Regional  
Office.*

[FR Doc. 83-3330 Filed 2-7-83; 8:45 am]

**BILLING CODE 4210-01-M**

[Docket No. D-83-692]

### Office of the Regional Administrator, Seattle Regional Office, Region X, Washington; Designation

**AGENCY:** Housing and Urban  
Development Department.

**ACTION:** Designation of order of  
succession.

**SUMMARY:** The Regional Administrator of Region X (Seattle) is designating officials who may serve as Acting Regional Administrator during the absence, disability, or vacancy in the position of Regional Administrator.

**EFFECTIVE DATE:** February 8, 1983.

**FOR FURTHER INFORMATION CONTACT:**  
Terrence R. Duvernay, Deputy Regional  
Administrator, Seattle Regional Office,  
Department of Housing and Urban  
Development, 1321 Second Avenue,  
Seattle, Washington 98101, (206) 442-  
5330. This is not a toll free number.

Designation: Each of the officials appointed to the following positions is designated to serve as Acting Regional Administrator during the absence of the Regional Administrator of Region X (Seattle), with all the powers, functions, and duties redelegated or assigned to the Regional Administrator; provided that no official is authorized to serve as Acting Regional Administrator unless all officials listed before him/her in this designation are unavailable to act by reason of absence, disability, or vacancy in the position.

1. Deputy Regional Administrator.
2. Director, Office of Regional  
Housing.
3. Regional Counsel.
4. Director, Office of Regional  
Community Planning and Development.
5. Director, Office of Regional Fair  
Housing and Equal Opportunity.
6. Director, Office of Regional  
Administration.

(Delegation of Authority, 27 FR 4319 (1962);  
Section 9(c), Department of Housing and  
Urban Development Act, 42 U.S.C. 3531 note;  
and Interim Order II, 31 FR 815 (1966))

Dated: January 21, 1983.

**William Y. Nishimura,**  
*Regional Administrator, Seattle Regional  
Office.*

[FR Doc. 83-3329 Filed 2-7-83; 8:45 am]

**BILLING CODE 4210-01-M**

## DEPARTMENT OF THE INTERIOR

### Bureau of Land Management

[C-093687]

### Colorado; Order Providing for Opening of Public Lands: Amendment

January 31, 1983.

Order providing for opening of public lands appearing as **Federal Register** Document 65-2647 in the issue for Tuesday, March 16, 1965, is hereby amended to include under land list (b) Surface Estate Only Conveyed—the following land:

Sixth Principal Meridian, Colorado

T. 7 N., R. 101 W.,

Sec. 26, Lot 8;

T. 9 N., R. 102 W.,

Sec. 15, Lot 2.

The areas described aggregate 0.71 acres of public lands in Moffat County.

**Robert D. Dinsmore,**  
*Chief, Branch of Land and Minerals  
Operations.*

[FR Doc. 83-3299 Filed 2-7-83; 8:45 am]

**BILLING CODE 4310-84-M**

### Regional Oil Shale Team Meeting for Colorado Prototype Oil Shale Lease

**AGENCY:** Bureau of Land Management  
(BLM), Interior.

**ACTION:** Notice of Regional Oil Shale  
Team (R.O.S.T.) Meeting March 2, 1983.

**SUMMARY:** The purpose of the meeting is for the R.O.S.T. to prepare their recommendations to the Secretary of the Interior for the proposed Oil Shale Prototype Lease Sale in Colorado. The meeting will be held at the Sheraton Inn, Lakewood, 360 Union Boulevard, Lakewood, Colorado 80228, phone (303) 987-2000, on March 2, 1983, at 1:00 p.m.

**FOR FURTHER INFORMATION CONTACT:**  
Mr. Robert E. Leopold, Oil Shale  
Program Manager, Bureau of Land  
Management (910), Colorado State  
Office, 1037 20th Street, Denver,  
Colorado 80202, Phone: (303) 837-5435  
(Com.), 327-5435 (FTS).

Dated: February 2, 1983.

**George C. Francis,**  
*State Director, Colorado.*

[FR Doc. 83-3275 Filed 2-7-83; 8:45 am]

**BILLING CODE 4310-84-M**

## National Park Service

### National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by



the National Park Service before January 28, 1983. Pursuant to § 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, National Park Service, U.S. Department of the Interior, Washington, DC 20243. Written comments should be submitted by February 23, 1983.

Carol D. Shull,  
Chief of Registration, National Register.

## CALIFORNIA

### Kern County,

Bakersfield, *Bakersfield Californian Building*, 1707 Eye St.

### Orange County

Santa Ana, *Rankin Building*, 117 W. 4th St.

### San Francisco County

San Francisco, *Moss Flats Building*, 1626 Great Hwy.

San Francisco, *Paige Motor Car Company Building*, 1699 Van Ness Ave.

## IOWA

### Allamakee County

Lansing, *Old Allamakee County Courthouse* (*County Courthouses in Iowa TR*), Second St.

### Harrison County

Magnolia, *Old Harrison County Courthouse* (*Courthouses in Iowa TR*), 401 Locust

## KANSAS

### Chautauqua County

Elgin vicinity, *Cedar Creek Bridge* (*Rainbow Arch (Marsh Arch) Bridges of Kansas TR*), FAS 96

### Cherokee County

Baxter Springs vicinity, *Brush Creek Bridge*, (*Rainbow Arch (Marsh Arch) Bridges of Kansas TR*), N of Baxter Springs

### Coffey County

Hartford vicinity, *Neosho River Bridge* (*Rainbow Arch (Marsh Arch) Bridges of Kansas TR*), E of Hartford

### Geary County

Junction City vicinity, *Canroe Bridge* (*Rainbow Arch (Marsh Arch) Bridges of Kansas TR*), E of Junction City

### Linn County

Mound City vicinity, *Mine Creek Bridge*, (*Rainbow Arch (Marsh Arch) Bridges of Kansas TR*), E of Mound City

### Lyon County

Emporia vicinity, *Soden's Grove Bridge*, (*Rainbow Arch (Marsh Arch) Bridges of Kansas TR*), KS 57/99

### Miami County

Osawatomie vicinity, *Pottawatomie Creek Bridge*, (*Rainbow Arch (Marsh Arch) Bridges of Kansas TR*), FAS 1604

Osawatomie, *Creamery Bridge* (*Rainbow Arch (Marsh Arch) Bridges of Kansas TR*), FAS 456

### Montgomery County

Independence vicinity, *Dewlin-Spohnhauer Bridge* (*Rainbow Arch (Marsh Arch) Bridges of Kansas TR*), US 160

### Shawnee County

Topeka vicinity, *Blacksmith Creek Bridge* (*Rainbow Arch (Marsh Arch) Bridges of Kansas TR*), W of Topeka

## KENTUCKY

### Campbell County

Alexandria vicinity, *Barth, Peter, Farm* (*German Settlement, Four Mile Creek Area TR*), Lower Tug Fork Rd.

Alexandria vicinity, *Blenke House* (*German Settlement, Four Mile Creek Area TR*), Four and Eight Mile Rd.

Alexandria vicinity, *Faha, John, House* (*German Settlement, Four Mile Creek Area TR*), Lower Tug Fork Rd.

Alexandria, vicinity, *Kremer, Frederick, House* (*German Settlement, Four Mile Creek Area TR*), 317 Poplar Ridge Rd.

Alexandria vicinity, *Kremer, Nicholas, House* (*German Settlement, Four Mile Creek Area TR*), Four and Twelve Mile Pike

Alexandria vicinity, *Ort-Heeb Farm* (*German Settlement, Four Mile Creek Area TR*), Four Mile Pike

Alexandria vicinity, *Reitman House* (*German Settlement, Four Mile Creek Area TR*), Reitman Rd.

Alexandria vicinity, *Ritter, Andrew, Farm* (*German Settlement, Four Mile Creek Area TR*), Four Mile Pike

Alexandria vicinity, *Sauser Farm* (*German Settlement, Four Mile Creek Area TR*), Upper Tug Fork Rd.

Alexandria vicinity, *St. John's Lutheran Cemetery* (*German Settlement, Four Mile Creek Area TR*), Upper Tug Fork Rd.

Alexandria vicinity, *St. Joseph's Catholic Church and Cemetery* (*German Settlement, Four Mile Creek Area TR*), Four Mile Pike

Alexandria vicinity, *Uebel House* (*German Settlement, Four Mile Creek Area TR*), Upper Tug Fork Rd.

Camp Springs, *Reitman's St. Joseph House* (*German Settlement, Four Mile Creek Area TR*), Four Mile Pike

Camp Springs, vicinity, *Bishoff House* (*German Settlement, Four Mile Creek Area TR*), Upper Eight Mile Rd.

Camp Springs vicinity, *Braun, John, House* (*German Settlement, Four Mile Creek Area TR*), Eight Mile Rd.

Camp Springs, vicinity, *Camp Spring House* (*German Settlement, Four Mile Creek Area TR*), Four Mile Pike

Camp Springs vicinity, *Heiert Farm* (*German Settlement, Four Mile Creek Area TR*), Upper Eight Mile Pike

Camp Springs vicinity, *Hilbert Farm* (*German Settlement, Four Mile Creek Area TR*), Gunkel Rd.

Camp Springs, vicinity, *Roth farm* (*German Settlement, Four Mile Creek Area TR*), Off Lower Eight Mile Rd.

Camp Springs, *Baumann House* (*German Settlement, Four Mile Creek Area TR*), Four Mile Pike

Camp Springs, *Blau's Four Mile House* (*German Settlement, Four Mile Creek Area TR*), Four Mile Pike

Camp Springs, *Gubser-Schuchter Farm* (*German Settlement, Four Mile Creek Area TR*), Four Mile Pike

Camp Springs, *Kort Grocery* (*German Settlement, Four Mile Creek Area TR*), Four Mile Pike

Camp Springs, *Kremer, Matthias, House* (*German Settlement, Four Mile Creek Area TR*), Four and Twelve Mile Rd.

Camp Springs, *Leick House* (*German Settlement, Four Mile Creek Area TR*), Four Mile Pike

Melbourne vicinity, *Tiemeyer House* (*German Settlement, Four Mile Creek Area TR*), KY 8

Melbourne vicinity, *Trutschell House* (*German Settlement, Four Mile Creek Area TR*), KY 8

## LOUISIANA

### West Feliciana Parish

St. Francisville, *Afton Villa Gardens*, N of St. Francisville on U.S. 61

## MARYLAND

### Prince Georges County

Upper Marlboro vicinity, *Compton Bassett*, 16508 Marlboro Pike

## MICHIGAN

### Kent County

Grand Rapids, *Michigan Trust Company Building*, 40 Pearl St., N.W.

### Lenawee County

Adrian, *St. Mary of Good Counsel Catholic Church*, 320 Division St.

## MINNESOTA

### Lake County

Two Harbors, *Duluth and Iron Range Railroad Company Depot*, 6th St. off South Ave.

Two Harbors, *Lake County Courthouse and Sheriff's Residence*, 3rd Ave. at 6th St.

### Ramsey County

St. Paul, *Arlington Hills Library* (*Carnegie Libraries of St. Paul TR*), 1105 Greenbrier St.

St. Paul, *Church of St. Bernard*, 197 W. Geranium Ave.

St. Paul, *First Baptist Church of St. Paul*, 499 Wacouta St.

St. Paul, *Krank Building*, 1855 W. University Ave.

St. Paul, *Riverview Branch Library* (*Carnegie Libraries of St. Paul TR*), 1 E. George St.

St. Paul, *St. Anthony Park Branch Library* (*Carnegie Libraries of St. Paul TR*), 2245 W. Como Ave.

White Bear Lake, *First National Bank of White Bear*, 4744 Washington Ave.

### St. Louis County

Gilbert vicinity, *St. Louis County 4-H Club Camp*, 100 Pine Lane

**MISSISSIPPI***Marshall County*

Byhalia vicinity, *Myers-Hicks Place*, MS 309

**NEBRASKA***Gage County*

Wymore, *Lake Bridenthal House*, 113 S. 9th St.

**NEVADA***Washoe County*

Reno, *20th Century Club*, 335 W. First St.

Reno, *Clifford House*, 339 Ralston St.

Reno, *First United Methodist Church*, W. First and West Sts.

Reno, *Franovich House*, 328 Ralston St.

Reno, *Graham, William J., House*, 548 California Ave.

Reno, *Levy House*, 111-121 California Ave.

Reno, *Nortonia Boarding House*, 150 Ridge St.

Reno, *Twaddle Mansion*, 485 W. Fifth St.

Reno, *Tyson House*, 242 W. Liberty St.

**NEW JERSEY***Mercer County*

Trenton, *Stokely-Van Camp Industrial Complex*, Lalor Street at Stokely Ave.

**PENNSYLVANIA***Berks County*

Oley Township, *Oley Township Historic District*, PA 73

*Chester County*

Downingtown vicinity, *Bridge Mill Farm*, Mashall Rd.

Glen Moore, *Pleasant Hill Plantation*, Little Conestoga Rd.

West Chester, *New Century Clubhouse*, High and Lacey Sts.

*Cumberland County*

Mechanicsburg, *Simpson Street School*, Simpson & High Sts.

*Dauphin County*

Harrisburg, *Greenawalt Building*, 118-120 Market St.

*Delaware County*

Glen Mills, *Newlin Mill Complex*, S. Cheyney Rd.

*Erie County*

Erie, *Cashiers House and Coach House (Boundary Increase)*, 413 State St., 11 E. 4th St.

*Philadelphia County*

Philadelphia, *St. John's Church*, 220-30 Brown St.

*Pike County*

Lackawaxen vicinity, *Grey, Zane, House*, Roebbling Rd.

**PUERTO RICO***Mayaguez County*

San German, *Casa De Los Ponce De Leon*, Dr. Santiago Vevé Num. 13

**VERMONT***Chittenden County*

Burlington, *Kelsey, Martin L., House*, 43 Elmwood Ave.

**VIRGINIA***Amherst County*

Clifford vicinity, *Ceddes*, SR 700

*Surry County*

Bacon's Castle vicinity, *Old Brick Church*, VA 10

The following property is being removed from the National Register of Historic Places because of procedural error.

**COLORADO***Denver County*

Denver, *Zang Barn and Stable*, *Rocky Mountain Hotel*, 2263 and 2301 7th St.

[FR Doc. 83-3337 Filed 2-7-83; 8:45 am]

**BILLING CODE 4310-70-M**

**INTERSTATE COMMERCE COMMISSION**

[No. MC-F-15088]

**East Penn Trucking Co., Purchase (Portion) Exemption Foodtrain, Inc.**

**AGENCY:** Interstate Commerce Commission

**ACTION:** Notice of proposed exemption

**SUMMARY:** Pursuant to 49 U.S.C. 11343(e) and the Commission's regulations in *Procedures for Handling Exemptions Filed by Motor Carriers* 367 I.C.C. 113 (1982), East Penn Trucking Company, seeks an exemption from the requirement under section 11343 of prior regulatory approval for acquisition of a portion of the motor carrier operating rights of Foodtrain, Inc., i.e., certificate Nos. MC-141776 (Sub-Nos. 10, 11, 15, 19, 21, 22, 24, 25, 28, 31 and 32), which authorize collectively, the transportation of (1) food and related products and (2) metal articles from and to and between points in 27 States and the District of Columbia.

**DATE:** Comments must be received within 30 days after the date of publication in the *Federal Register*.

**ADDRESS:** (1) Motor Section, Room 2353, Interstate Commerce Commission, Washington, D.C. 20423, and

(2) Petitioner's representative: William A. Chesnutt, P.O. Box 1166, 100 Pine Street, Harrisburg, PA 17108-1166.

Comments should refer to No. MC-F-15088.

**FOR FURTHER INFORMATION CONTACT:** Warren C. Wood, (202) 275-7949.

**SUPPLEMENTARY INFORMATION:** Please refer to the petition for exemption, which may be obtained free of charge by

contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: February 1, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,

Secretary,

[FR Doc. 83-3277 Filed 2-7-83; 8:45 am]

**BILLING CODE 7035-01-M**

**[Ex Parte No. 387]****Exemptions for Contract Tariffs; Norfolk & Western Railway Co. et al.**

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notices of Provisional Exemptions.

**SUMMARY:** Provisional exemptions are granted under 49 U.S.C. 10505 from the notice requirements of 49 U.S.C. 10713(e), and the below-listed contract tariffs may become effective on one day's notice. These exemptions may be revoked if protests are filed.

**DATES:** Protests are due within 15 days of publication in the *Federal Register*.

**ADDRESS:** An original and 6 copies should be mailed to: Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

**FOR FURTHER INFORMATION CONTACT:** Douglas Galloway, (202) 275-7278 or Tom Smerdon, (202) 275-7277.

**SUPPLEMENTARY INFORMATION:** The 30-day notice requirement is not necessary in these instances to carry out the transportation policy of 49 U.S.C. 10101a or to protect shippers from abuse of market power; moreover, the transaction is of limited scope. Therefore, we find that the exemption requests meet the requirements of 49 U.S.C. 10505(a) and are granted subject to the following conditions:

These grants neither shall be construed to mean that the Commission has approved the contracts for purposes of 49 U.S.C. 10713(e) nor that the Commission is deprived of jurisdiction to institute a proceeding on its own initiative or on complaint, to review these contracts and to determine their lawfulness.

Sub-No.	Name of railroad, contract number, and specifics	Review Board <sup>1</sup>	Decided date
754	Norfolk and Western Railway Co., ICC-NW-C-0036, Supplement 2, (Soybean meal).....	1	02-01-83
759	St. Louis Southwestern Railway Co., ICC-SSW-C-0115, Supplement 1, (Forest products)....	3	Do.

<sup>1</sup> Review Board No. 1, Members Parker, Chandler, and Fortier. Review Board No. 3, Members Krock, Joyce, and Dowell.

This action will not significantly affect the quality of the human environment or conservation of energy resources.

(49 U.S.C. 10505)

Agatha L. Mergenovich,  
Secretary.

[FR Doc. 83-3171 Filed 2-7-83; 8:45 am]  
BILLING CODE 7035-01-M

### Forms Under Review by Office of Management and Budget

The following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35) is being submitted to the Office of Management and Budget for review and approval. Copies of the forms and supporting documents may be obtained from the Agency Clearance Officer, Lee Campbell (202) 275-7238. Comments regarding this information collection should be addressed to Lee Campbell, Interstate Commerce Commission, Room 1325, 12th and Constitution Ave., NW., Washington, DC 20423 and to Gary Waxman, Office of Management and Budget, Room 3001 NEOB, Washington, DC 20503, (202) 395-7313.

Type of Clearance—Extension  
Bureau/Office—Office of Transportation Analysis

Title of Form—Minority Carrier Survey  
OMB Form Number—3120-0050  
Agency Form Number—OPA-81-1  
Frequency—Semi-annually  
Respondents—Minority owned trucking firms with interstate authority  
Number of Respondents—36  
Total Burden Hours—3

Agatha L. Mergenovich,  
Secretary.

[FR Doc. 83-3280 Filed 2-7-83; 8:45 am]  
BILLING CODE 7035-01-M

[No. MC-F-15079]

### Les Mathre Trucking, Inc.; Purchase Exemption; Shoemaker Trucking Co.; Proposed Exemption

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice of proposed exemption.

**SUMMARY:** Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures—Handling Exemptions Filed by Motor Carriers*, 367 I.C.C. 113 (1982) Les Mathre Trucking, Inc., seeks an exemption from the requirement under section 11343 of prior regulatory approval for acquisition of a portion of the motor carrier operating rights of Shoemaker Trucking Company, i.e.,

certificate Nos. MC-138875 (Sub-Nos. 309x(k) and 309x(d) which authorize respectively the transportation of (1) such commodities as are dealt in by grocery and food business houses and food and related products, between Chicago, IL, on the one hand, and, on the other, points in Washington, and (2) such commodities as are dealt in by grocery and food business houses and food and related products, between Chicago, IL, on the one hand, and, on the other, points in Idaho and Oregon.

**DATE:** Comments must be received within 30 days after the date of publication in the *Federal Register*.

**ADDRESSES:** (1) Motor Section, Room 2353, Interstate Commerce Commission, Washington, D.C. 20423, and  
(2) Petitioner's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309.

Comments should refer to No. MC-F-15079.

**FOR FURTHER INFORMATION CONTACT:** Warren C. Wood, (202) 275-7949.

**SUPPLEMENTARY INFORMATION:** Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: February 1, 1983.

By the Commission, Heber P. Hardy,  
Director, Office of Proceedings.  
Agatha L. Mergenovich,  
Secretary.

[FR Doc. 83-3263 Filed 2-7-83; 8:45 am]  
BILLING CODE 7035-01-M

[No. MC-F-15067]

### Peterson Express, Inc. Purchase Exemption; Thermo Transport, Inc.; Proposed Exemption

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice of proposed exemption.

**SUMMARY:** Pursuant to 49 U.S.C. 11343(e), and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures for Handling Exemptions Filed by Motor Carriers of Property* under 49 U.S.C. 11343, 367 I.C.C. 113 (1982), Peterson Express, Inc., (Peterson), a regulated motor carrier (No. MC-162104), and, in turn, Walter R. Key, Richard White, and Douglas A. Peterson, who jointly control Peterson, seek an exemption from the requirement under section 11343 of prior regulatory approval for the acquisition of control of

a portion of the operating rights of Thermo Transport, Inc. (Thermo), a regulated motor carrier (No. MC-145359), through purchase of Thermo's Sub-No. 43 permit to transport general commodities (with exceptions), under continuing contract(s) with United Technologies, Inc., Essex Group, of Fort Wayne, IN.

**DATES:** Comments must be received within 30 days after the date of publication in the *Federal Register*.

**ADDRESSES:** Send comments to: (1) Motor Section, Room 2139, Interstate Commerce Commission, Washington, D.C. 20423, and

(2) Petitioner's Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240.

Comments should refer to No. MC-F-15067.

**FOR FURTHER INFORMATION CONTACT:** Warren C. Wood, (202) 275-7949.

**SUPPLEMENTARY INFORMATION:** Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: January 31, 1983.

By the Commission, Heber P. Hardy,  
Director, Office of Proceedings.  
Agatha L. Mergenovich,  
Secretary.

[FR Doc. 83-3285 Filed 2-7-83; 8:45 am]  
BILLING CODE 7035-01-M

[No. MC-F-15100; OP4F-060]

### Pick's Pack Hauler, Inc.; Purchase Exemption; Nebraska Carriers, Inc.; Proposed Exemption

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice of proposed exemption.

**SUMMARY:** Pursuant to 49 U.S.C. 11343(e) and the Commission's regulations in Ex Parte No. 400 (Sub-No. 1), *Procedures—Handling Exemptions Filed by Motor Carriers*, 367 I.C.C. 113 (1982), Pick's Pack Hauler, Inc., (MC-117639), seeks an exemption from the requirement under Section 11343 of prior regulatory approval for acquisition of a portion of the operating rights of Nebraska Carriers, Inc., (MC-153207). The pertinent authority provides for the transportation of machinery, metal products, and building materials, between points in Nebraska, on the one

hand, and, on the other, points in the coterminous United States.

**DATE:** Comments must be received within 30 days after the date of publication in the *Federal Register*.

**ADDRESSES:** Send comments to: (1) Motor Section, Room 2353, Interstate Commerce Commission, Washington, D.C. 20423, and

(2) Petitioner's representative: A. J. Swanson, Quaintance, Swanson & Johnson, P.O. Box 1103, Sioux Falls, SD 57101.

Comments should refer to No. MC-F-15100.

**FOR FURTHER INFORMATION CONTACT:** Warren C. Wood, (202) 275-7949.

**SUPPLEMENTARY INFORMATION:** Please refer to the petition for exemption, which may be obtained free of charge by contacting petitioner's representative. In the alternative, the petition for exemption may be inspected at the offices of the Interstate Commerce Commission during usual business hours.

Decided: January 31, 1983.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,  
*Secretary.*

[FR Doc. 83-3284 Filed 2-7-83; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. 30099]

**Pocono Northeast Railway, Inc.;  
Exemption; Issuance of Note**

**AGENCY:** Interstate Commerce Commission.

**ACTION:** Notice of Exemption.

**SUMMARY:** The Interstate Commerce Commission exempts from the requirements of prior approval under 49 U.S.C. 11301 the issuance of a note by the Pocono Northeast Railway, Inc., in the aggregate principal amount of \$400,000 to Sogen Lease, New York, NY, a wholly-owned banking subsidiary of Societe Generale of France.

**DATES:** This exemption will be effective on February 8, 1983. Petitions to reopen must be filed by February 28, 1983.

**ADDRESSES:** Send pleadings to: (1) Rail Section, Room 5349, Interstate Commerce Commission, Washington, DC 20423, and

(2) Petitioner's representative: Peter A. Gilbertson, Suite 350, 1575 Eye Street, NW, Washington, DC 20005.

Pleadings should refer to Finance Docket No. 30099.

**FOR FURTHER INFORMATION CONTACT:** Louis E. Gitomer, (202) 275-7245.

**SUPPLEMENTARY INFORMATION:**

Additional information is contained in the Commission's decision. To purchase a copy of the full decision contact: TS Infosystems, Inc., Room 2227, 12th & Constitution Ave., NW., Washington, DC 20423, (202) 289-4357—DC Metropolitan area, (800) 424-5402—Toll free for outside the DC area.

Decided: February 1, 1983.

By the Commission, Chairman Taylor, Vice Chairman Sterrett, Commissioners Gilliam, Andre, Simmons, and Gradison. Commissioner Gilliam did not participate.

Agatha L. Mergenovich,  
*Secretary.*

[FR Doc. 83-3281 Filed 2-7-83; 8:45 am]

BILLING CODE 7935-01-M

[Ex Parte No. MC-107]

**Motor Carriers; Transportation of  
Government Traffic**

February 1, 1983.

In the matter of Transportation of Government Traffic, No. GT-53-80, et al.; the Andrews Moving & Storage Co., Government Traffic Application (Cleveland, OH), No. GT-393-80, et al.; Academy Van and Storage Co., Inc. (Norfolk, VA), No. GT-558-80, et al.; Nilson Van & Storage (Columbia, SC), No. GT-790-80, et al.; Ideal Way Movers, Inc. (Marlboro, NJ), No. GT-850-80; Y. Higa Enterprises, Ltd. (Emeryville, CA), No. GT-1015-80, et al.; James M. Barnett and Mrs. James M. Barnett, a Government Traffic Application (Kosciusko, MS), No. GT-1031-80; Fidelity Storage Corporation Government Traffic Application (Alexandria, VA).

Notice to the parties.

By its decision in this matter served September 13, 1982, and published September 15, 1982, at 47 FR 40718, the Commission determined that as the result of a decision of the United States Court of Appeals for the District of Columbia Circuit in No. 80-1990, *Aero Mayflower Transit Co., Inc., et al. v. I.C.C., et al.*, certain operating authorities, issued pursuant to procedures adopted in *Transportation of Government Traffic*, 129 M.C.C. 623 (1978), 131 M.C.C. 845 (1979), will be void when the mandate of the court issues.

On January 20, 1983, the United States Court of Appeals for the District of Columbia Circuit issued an order in No. 80-1990 granting petitions to stay the issuance of the mandate and directing the clerk not to issue the mandate until thirty (30) days from the date of that order.

By the Commission, Heber P. Hardy, Director, Office of Proceedings.

Agatha L. Mergenovich,  
*Secretary.*

[FR Doc. 83-3279 Filed 2-7-83; 8:45 am]

BILLING CODE 7035-01-M

**Motor Carriers; Decision-Notice;  
Finance Applications**

As indicated by the findings below, the Commission has approved the following applications filed under 49 U.S.C. 10924, 10926, 10931 and 10932.

*We find:* Each transaction is exempt from section 11343 of the Interstate Commerce Act, and complies with the appropriate transfer rules.

This decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

Petitions seeking reconsideration must be filed within 20 days from the date of this publication. Replies must be filed within 20 days after the final date for filing petitions for reconsideration; any interested person may file and serve a reply upon the parties to the proceeding. Petitions which do not comply with the relevant transfer rules at 49 CFR 1181.4 may be rejected.

If petitions for reconsideration are not timely filed, and applicants satisfy the conditions, if any, which have been imposed, the application is granted and they will receive an effective notice. The notice will recite the compliance requirements which must be met before the transferee may commence operations.

Applicants must comply with any conditions set forth in the following decision-notices within 20 days after publication, or within any approved extension period. Otherwise, the decision-notice shall have no further effect.

*It is ordered:* The following applications are approved, subject to the conditions stated in the publication, and further subject to the administrative requirements stated in the effective notice to be issued hereafter.

Agatha L. Mergenovich,  
*Secretary.*

**Volume No. OP1-FC-46**

For status, please call Team 1 at 202-275-7992.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC-FC-81085. By decision of January 25, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part

1181, Review Board Number 3 approved the transfer to 3C, INC. Oklahoma City, OK, of Certificate No. MC-121801 (Sub-Nos. 1, 2F, 3F, 4 and 5) issued August 9, 1979, February 25, 1982, November 8, 1980, September 24, 1981, and November 24, 1982, respectively, to Hayes Motor Freight, Inc., Oklahoma City, OK, authorizing the transportation of general commodities, with exceptions (A) over specified regular routes, between (1) Oklahoma City and Marietta, OK, (2) Pauls Valley and Alex, OK, (3) junction U.S. Hwy. 77 and OK Hwy 29, and Ardmore, OK, (4) Pauls Valley and Ardmore, OK, (5) Purcell and Maysville, OK, (6) Maysville and Elmore City, OK, (7) Ardmore, OK and Wichita Falls, TX, Gainsville, TX, and Dallas, TX, and (B) over irregular routes, between points in OK, on the one hand, and, on the other, Chicago, IL, Shreveport, LA, Little Rock, AR, Memphis, TN, Topeka and Wichita, KS, Kansas City and St. Louis, MO, Dallas, Houston, San Antonio and Texarkana, TX. Transferee is a carrier holding authority under No. MC-162525. An application for temporary authority has been filed. Representative: G. Timothy Armstrong, 200 N. Choctaw, P.O. Box 1124, El Reno, OK 73036.

#### Volume No. OP2-048

For status, please call Team 2 at 202-275-7251.

By the Commission, Review Board No. 2, Members Parker, Chandler, and Fortier.

MC-FC-81054. By decision of January 25, 1983, issued under 49 U.S.C. 10926, and the transfer rules at 49 CFR 1181, Review Board Number 2, approved the transfer to Hulme Transportation Co., Inc., Foster, RI, of certificate No. MC-125023, Sub-Nos. 38, 63, and 70, issued February 28, 1978, December 13, 1979, and August 14, 1980, respectively, to Sigma-4 Express, Inc. (James McNamara, Trustee in Bankruptcy), Erie, PA, authorizing the transportation of *glass containers*, (1) from the facilities of Midland Glass Co., Inc., at or near Cliffwood, NJ, to (a) South Volney, NY, and (b) points in Oswego and Onondago Counties, NY (except South Volney) and (2) from Washington, PA, to those points in NY, on and west of Interstate Hwy 87. Representative: Richard MacNeil, P.O. Box 101, Foster, RI.

#### Volume No. OP2-053

For status, please call Team 2 at 202-275-7251.

By the Commission Review Board No. 3, Members Krock, Joyce, and Dowell.

MC-FC-81016. By decision of January 28, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR 1181, Review Board Number 3 approved the

transfer to transferee O-Land Container Transport, Inc. Port Newark, NJ, of Certificate No. MC-1403 (Sub-No. 8), issued December 22, 1981, to transferor, Central Transfer Company (Jeffery Rothbard, trustee in bankruptcy), Newark, NJ, authorizing the transportation of general commodities (except classes A and B explosives and household goods), between points in CT, DE, MD, MA, NJ, NY, PA, RI, VA, and DC. Representative: Jeffery Rothbard, Esq. 1180 Raymond Blvd., Newark, NJ 07102 for transferor and Ronald I. Shapss, 450 Seventh Ave., New York NY 10123 for transferee.

Note.—All of the certificates under No. MC-1403 except Sub-No. 8 are cancelled as requested by the parties.

#### Volume No. OP4-FC-057

For status, please call Team 4 at 202-275-7669.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier, (Member Parker not participating.)

MC-FC-81165. By decision of January 31, 1983 issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 1 approved the transfer to Willingham's Garage, Inc., Newberry, SC, of Certificate No. MC-152457 (Sub-No.1), issued October 21, 1982, to Olin Willingham, d/b/a Willingham's Garage, Newberry, SC, authorizing the transportation of (1) *wrecked or disabled vehicles and replacement vehicles therefor*; and (2) *repossessed vehicles*, (a) between points in GA, NC and SC; and (b) between points in (a) above, on the one hand, and, on the other, points in the U.S. Representative: Frank A. Graham, Jr., P.O. Box 11864, Columbia, SC 29211, (803) 799-9122, for both transferee and transferor.

#### Volume No. OP5-FC32

For status, please call Team 5 at 202-275-7289.

By the Commission, Review Board No. 2, Members Parker, Chandler, and Fortier.

MC-FC-81082. By decision of January 18, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 1 approved the transfer to Sixway Forwarding, Inc., Karmy, NJ., of Certificate No. 14282 issued August 22, 1978, to Six Way Enterprises, Inc., Kearny, NJ, authorizing the transportation of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in NJ on the one hand, and, on the other, Atlantic Coast ports in NY and NJ. Restriction: The service

authorized herein is restricted to traffic having a prior or subsequent movement by water in foreign commerce. Transferee is not a carrier.

Representative: Kenneth Smith, 60 John Hay Avenue, Kearny, NJ 07032.

MC-FC-81047. By decision of January 21, 1983, issued under 49 U.S.C. 10926 and the transfer rules at 49 CFR Part 1181, Review Board Number 1 approved the transfer to George R. Murphy, d/b/a Murphy Trucking & Excavation Co., of Reno, OH, of Certificate No. MC-120903 Sub 3 issued August 24, 1978 to Marietta Motor Freight, Inc., of Marietta, OH, authorizing the transportation of (1) *aluminum articles, and equipment and materials used in the manufacture of aluminum articles*, between the facilities of Kaiser Aluminum & Chemical Corporation at or near Ravenswood, WV, on the one hand, and, on the other, points in OH, and (2) *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and those requiring special equipment), (a) between Marietta, OH, and those points in OH within a five-mile radius of Marietta, on the one hand, and, on the other, points on OH, and (b) between points in Washington County, OH (except Belpre and Warner). Transferee is a carrier holding authority under MC-114718. Representative: A. Charles Tell, Suite 1800, 100 E. Board St., Columbus, OH 43215.

Note.—Applicant filed a directly related application in MC-114718 Sub 3 with this transfer which was denied by decision of January 21, 1983.

[FR Doc. 83-3278 Filed 2-7-83; 8:45 am]

BILLING CODE 7035-01-M

#### Motor Carriers; Permanent Authority Decisions; Decision-Notice

In the matter of Motor Common and Contract Carriers of Property (except fitness-only); Motor Common Carriers of Passengers (public interest); Freight Forwarders; Water Carriers; Household Goods Brokers.

The following applications for motor common or contract carriers of property, water carriage, freight forwarders, and household goods brokers are governed by Subpart A of Part 1160 of the Commission's General Rules of Practice. See 49 CFR Part 1160, Subpart A, published in the *Federal Register* on November 1, 1982, at 47 FR 49583, which redesignated the regulations at 49 CFR 1100.251, published in the *Federal Register* December 31, 1980. For compliance procedures, see 49 CFR

1160.19. Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart B.

The following applications for motor common carriage of passengers, filed on or after November 19, 1982, are governed by Subpart D of 49 CFR Part 1160, published in the *Federal Register* on November 24, 1982 at 47 FR 53271. For compliance procedures, see 49 CFR 1160.86. Carriers operating pursuant to an intrastate certificate also must comply with 49 U.S.C. 10922(c)(2)(E). Persons wishing to oppose an application must follow the rules under 49 CFR Part 1160, Subpart E. In addition to fitness grounds, these applications may be opposed on the grounds that the transportation to be authorized is not consistent with the public interest.

Applicant's representative is required to mail a copy of an application, including all supporting evidence, within three days of a request and upon payment to applicant's representative of \$10.00.

Amendments to the request for authority are not allowed. Some of the applications may have been modified prior to publication to conform to the Commission's policy of simplifying grants of operating authority.

#### Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, fitness, water carrier dual operations, or jurisdictional questions) we find, preliminarily, that each applicant had demonstrated that it is fit, willing, and able to perform the service proposed, and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations.

We make an additional preliminary finding with respect to each of the following types of applications as indicated: common carrier of property—that the service proposed will serve a useful public purpose, responsive to a public demand or need; water common carrier—that the transportation to be provided under the certificate is or will be required by the public convenience and necessity; water contract carrier, motor contract carrier of property, freight forwarder, and household goods broker—that the transportation will be consistent with the public interest and the transportation policy of section 10101 of chapter 101 of Title 49 of the United States Code.

These presumptions shall not be deemed to exist where the application is opposed. Except where noted, this decision is neither a major Federal action significantly affecting the quality

of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In the absence of legally sufficient opposition in the form of verified statements filed on or before 45 days from date of publication, (or, if the application later becomes unopposed) appropriate authorizing documents will be issued to applicants with regulated operations (except those with duly noted problems) and will remain in full effect only as long as the applicant maintains appropriate compliance. The unopposed applications involving new entrants will be subject to the issuance of an effective notice setting forth the compliance requirements which must be satisfied before the authority will be issued. Once this compliance is met, the authority will be issued.

Within 60 days after publication an applicant may file a verified statement in rebuttal to any statement in opposition.

To the extent that any of the authority granted may duplicate an applicant's other authority, the duplication shall be construed as conferring only a single operating right.

**Note.**—All applications are for authority to operate as a motor common carrier in interstate or foreign commerce over irregular routes, unless noted otherwise. Applications for motor contract carrier authority are those where service is for a named shipper "under contract." Applications filed under 49 U.S.C. 10922(c)(2)(B) to operate in intrastate commerce over regular routes as a common carrier of passengers are duly noted. Please direct status inquiries to Team One at (202) 275-7992.

#### Volume No. OP1-41

Decided: January 27, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 35831 (Sub-35), filed January 14, 1983. Applicant: E. A. HOLDER, INC., P.O. Box 69, Kennedale, TX 76060. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103, (817) 332-4718. Transporting *mercantile commodities and metal products*, between points in AL, AR, CO, KS, LA, MO, MS, NM, OK, TN and TX.

MC 117740 (Sub-2), filed January 19, 1983. Applicant: HORTON BROTHERS TRUCKING COMPANY, INC., 11613 Benton Drive, Dallas, TX 75229. Representative: William Sheridan, P.O. Drawer 5049, Irving, TX 75062, (214) 255-6279. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S., under continuing contract(s) with The Southland Corporation, of Dallas, TX.

MC 146361 (Sub-15), filed January 19, 1983. Applicant: WOLTER TRUCK LINES, INC., R.D. 6, Box 102, Greenwood, DE 19950. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth Street, NW., Washington, DC 20005, (302) 856-9755. Transporting (1) *commodities in bulk*, between point in NY, NJ, PA, WV, DE, MD, VA, NC, and DC, and (2) *chemicals and related products*, between points in NY, NJ, DE, MD, and VA.

MC 147571 (Sub-7), filed January 20, 1983. Applicant: TWIN RIVERS TRANSPORTATION COMPANY, 500 Armory Drive, South Holland, IL 60473. Representative: Edward G. Bazelon, 135 South LaSalle Street, Chicago, IL 60603, (312) 236-9375. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 148130 (Sub-4), filed January 20, 1983. Applicant: SHARP TRANSPORT, INC. Rte. 1, Box 20, Ethridge, TN 38456. Representative: Henry E. Seaton, 1024 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004, (202) 347-8862. Transporting *such commodities* as are dealt in by wholesale, retail and institutional food houses, between points in CA, on the one hand, and, on the other, points in TN, GA, AL, MS, AR, and KY.

MC 148151 (Sub-10), filed January 18, 1983. Applicant: RAY BELLEW & SONS, INC., 7810 Alameda Genoa Road, Houston, TX 77075. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459, (713) 437-1768. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 152320 (Sub-5), filed December 27 1982. Applicant: VERSPEETEN CARTAGE LIMITED, 67 Dalton Rd., Delhi, Ontario, Canada N4B 1B4. Representative: Neill T. Riddell, 900 Guardian Bldg., Detroit, MI 48226, (313)-963-3750. Transporting *tobacco products and machinery*, between points in the U.S., under continuing contract(s) with businesses engaged in the manufacture, production and distribution of (a) tobacco products, and (b) materials, equipment and supplies utilized in the manufacture, production and distribution of tobacco products.

MC 152531 (Sub-1), filed January 19, 1983. Applicant: J C & CO, INC., P.O. Box 144, Pearce, AZ 85625. Representative: A. Michael Bernstein, 1441 E. Thomas Rd. Phoenix, AZ 85014, (602) 264-4891. Transporting



*commodities in bulk*, between points in AZ, NM and UT.

MC 154331 (Sub-3), filed January 18, 1983. Applicant: BOB GALLANT TRUCKING, INC., 1935 Lombardy Drive, Rapid City, SD 57701. Representative: J. Maurice Andren, 1734 Sheridan Lake Rd., Rapid City, SD 57701; (605)-343-4036. Transporting *general commodities* (except classes A and B explosives and household goods), between points in SD, WY, and those points in NE and ND on and west of U.S. Hwy 83, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 156580 (Sub-1), filed January 17, 1983. Applicant: TRAN STAR TRANSIT, INC., 510 S. 110th Street, Edwardsville, KS 66113. Representative: Thomas A. Stroud, 109 Madison Ave., Memphis, TN 38103, (901) 528-2900. Transporting (1) *food and related products*, between Chicago, IL, and points in MO and KS, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *pet products*, between points in Dallas County, TX, on the one hand, and on the other, points in the U.S. (except AK and HI).

MC 156581 (Sub-3), filed January 18, 1983. Applicant: METROPLEX FREIGHT SERVICE, INC., 1804 Vantage St., Carrollton, TX 75006. Representative: William Sherida, P.O. Drawer 5049, Irving, TX 75062, (214)-255-6279. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 161551, filed January 17, 1983. Applicant: FRANCIS J. CAITO INC., 5724 E. Tenth St., Indianapolis, IN 46219. Representative: Francis J. Caito (same address as applicant), (317) 545-2387. Transporting *bananas*, between points in LA, MS, AL, TX, FL and SC, on the one hand, and, on the other, points in IN, IL, OH and MI.

MC 162851 (Sub-2), filed January 19, 1983. Applicant: BEL HEAVY HAULERS, INC., 3410 Marquart, Houston, TX 77027. Representative: John W. Carlisle, P.O. Box 967, Missouri City, TX 77459, (713) 437-1768. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 163790, filed January 14, 1983. Applicant: CLYDE M. ANDERSON, P.O. Box 427, Cleveland, UT 84518. Representative: Clyde M. Anderson (same address as applicant) (801) 653-2365. Transporting *alcoholic beverages*, between points in the U.S. (except AK

and HI), under continuing contract(s) with Archer's Distributing, Inc., of Price, UT.

MC 165700, filed January 14, 1983. Applicant: HARVEY SALT COMPANY, 1325 Mohrs Lane, Baltimore, MD 21220. Representative: Steven T. Blomberg, Suite 200, 444 N. Frederick Ave., Gaithersburg, MD 20877, (301) 840-8565. Transporting *salt and salt products*, between points in the U.S. (except AK and HI), under continuing contract(s) with International Salt Co., of Clarks Summit, PA.

MC 165781, filed January 19, 1983. Applicant: BES XPRESS, 13061 Vevea Road, Roger, MN 55374. Representative: Beth Specht, (same address as applicant), (612) 428-4505. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Transportation Systems International, Inc., of Minneapolis, MN.

#### Volume No. OP1-45

Decided: January 28, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 531 (Sub-468), filed January 21, 1983. Applicant: YOUNGER BROTHERS, INC., P.O. Box 14048, Houston, TX 77021. Representative: E. Stephen Heisley, 1919 Pennsylvania Avenue NW., Suite 500, Washington, DC 20006, (202) 828-5015. Transporting *general commodities* (except classes A and B explosives between points in the U.S. (except AK and HI), under continuing contract(s) with Union Carbide Corporation, of Danbury, CT.

MC 145651 (Sub-7), filed January 21, 1983. Applicant: DUNCAN & SONS, INC., 20735 County Road "W", Lewis, CO 81327. Representative: Robert W. Wright, Jr., 57111 Ammons Street, Arvada, CO 80002, (303) 424-1761. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in AZ, CA, CO, KS, NE, NV, NM, OK, TX, and UT.

MC 156811 (Sub-3), filed January 24, 1983. Applicant: FOOD TRANSPORT, INC., 614 West Sycamore Street, P.O. Box 446, Fayetteville, AR 72701. Representative: Grant M. Davis, 2217 Juneway Terrace, Fayetteville, AR 72701, (501) 443-3257. Transporting *food and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with Land O'Lakes, Inc., and its subsidiaries, of Arden Hills, MN.

MC 165740, filed January 14, 1983. Applicant: AMERICAN HIGHWAY CARRIERS OF INDIANA, INC., P.O. Box 6, Hammond, IN 46325. Representative: Donald S. Mullins, 1033 Graceland Ave., Des Plaines, IL 60016, (312) 298-1094. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in AL, AR, CO, CT, FL, GA, IL, IN, IA, KS, KY, LA, MD, MA, MI, MN, MS, MO, NE, NJ, NY, NC, ND, OH, OK, PA, SC, SD, TN, TX, VA, WV, and WI.

MC 165791, filed January 17, 1983. Applicant: CFA TRANSPORT, INC., P.O. Box 26007, 2508 Starita Rd., Charlotte, NC 28213. Representative: Wyatt E. Smith (same address as applicant) (704) 596-0657. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Charlotte Freight Association, Inc., of Charlotte, NC.

#### Volume No. OPI-47

Decided: February 1, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

FF-651, filed January 14, 1983. Applicant: STAN'S INTERNATIONAL FORWARDING, 1530 W. 12th St., Long Beach, CA 90813. Representative: Curtis D. Gunn (same address as applicant), (213) 436-9915. As a freight forwarder in connection with the transportation of *used household goods, unaccompanied baggage and used automobiles*, between points in the U.S.

W-1281 (Sub-1), filed January 19, 1983. Applicant: PARKER TOWING COMPANY, INC., 100½ 24th Ave., Tuscaloosa, AL 35402. Representative: Michael Joseph, Suite 500, 1776 F St., NW., Washington, D.C. 20006, (202) 467-5900. To operate as a *common carrier*, by water, by non-self propelled vessels with the use of separate towing vessels in the transportation of *general commodities* and by towing vessels in the performance of *general towage* between ports and points along the Gulf of Mexico and tributary waterways (including the Gulf Intracoastal Waterway but excluding the Mississippi River north of Baton Rouge, LA).

**Note.**—This application contemplates operations which should result in decreased energy consumption in comparison with existing energy consumption in the affected area. To the extent traffic will be diverted from existing transportation modes, greater energy efficiencies may be obtained without disruption to existing patterns of energy distribution or to development of energy



resources. The application is, in all respects, consistent with prevailing goals and objectives of the National Energy Policy.

MC 52680 (Sub-15), filed January 4, 1983. Applicant: D.A. EXPRESS, INC., 11937 S. Page Ave., Calumet Park, IL 60643. Representative: Stephen H. Loeb, Suite 4, 2777 Finley Road, Downers Grove, IL 60515, (312) 953-0330. Transporting *general commodities* (except classes A and B explosives), between points in the U.S. (except AK and HI).

MC 119871 (Sub-2), filed January 7, 1983. Applicant: EDWARD F. MADEIRA, INC., 514 Island St., Hamburg, PA 19526. Representative: William F. King, Suite 304, Overlook Bldg., 6121 Lincolnia Rd., Alexandria, VA 22312, (703) 750-1112. Transporting (1) *non-metallic minerals*, and (2) *clay, concrete, glass or stone products*, between points in CT, DE, IL, IN, KY, MA, ME, MD, MI, NJ, NY, NC, OH, PA, RI, VA, WV, WI, and DC.

MC 144621 (Sub-55), filed June 24, 1983. Applicant: COLUMBINE CARRIERS, INC., 52275 U.S. Hwy 31 North, P.O. Box 66, South Bend, IN 46624. Representative: Charles J. Kimball, 665 Capitol Life Center, 1600 Sherman St., Denver, CO 80203, (303) 839-5856. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with ITOFCA, Inc., of Downers Grove, IL.

MC 148791 (Sub-39), filed January 17, 1983. Applicant: TRANSPORT-WEST, INC., 1850 South 1100 West, Woods Cross, UT 84087. Representative: William S. Richards, P.O. Box 2465, Salt Lake City, UT, (801) 531-1777. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI).

**Note.**—The purpose of this application is to convert applicant's existing contract carrier authority in No. MC 148791 Sub Nos. 3, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 31 and 33, to common carrier authority.

**Condition:** Issuance of a certificate in this proceeding is subject to prior or coincidental cancellation, at applicant's written request, of its Permits held in MC-148791 Sub Nos. 3, 6, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 31 and 33.

MC 152030 (Sub-1), filed November 17, 1982, previously published in the FR on December 8, 1982. Applicant: WASPI TRUCKING, INC., 9500 Pyott Rd., Algonquin, IL 60102. Representative: Stephen H. Loeb, Suite 4, 2777 Finley

Rd., Downers Grove, IL 60515, (312)-953-0330. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Terrazzo & Marble Supply Co. of Illinois, Inc. and Plibrico Company, both of Chicago, IL.

MC 152640 (Sub-11), filed January 21, 1983. Applicant: RAPID DISTRIBUTION SERVICE, INC., 2392 North Dupont Highway, Dover, DE 19901. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth St., NW., Washington, DC 20005, (202) 296-3555. Transporting *such commodities* as are dealt in and distributed by retail department stores, discount houses, and chain stores, between points in the U.S. (except AK and HI).

MC 152741 (Sub-3), filed January 17, 1983. Applicant: APPALACHIAN FREIGHT CARRIERS, INC., P.O. Box 307, Edinburg, VA 22824. Representative: Lawrence E. Lindeman, 4660 Denmore Ave., Suite 1203, Alexandria, VA 22304, (703) 751-2441. Transporting *printed matter*, between points in VA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 155920 (Sub-2), filed January 24, 1983. Applicant: NORMAN G. MAGA AND LUCILLE A. MAGA, P.O. Box 225, Winnemucca, NV 89445. Representative: Irene Warr, 311 S. State St., Ste. 280, Salt Lake City, UT 84111, (801) 531-1300. Transporting *Lumber and wood products, building materials, and such commodities* as are dealt in or used by mines and mills, (a) between points in MT, UT, AZ, NV, ID, CO, NM, CA and KS, (b) between points in MT, in the one hand, and, on the other, points in MO, (c) between points in NV, on the one hand, and, on the other, points in MN, and (d) between points in CA, on the one hand, and, on the other, points in SC and SD.

MC 156361 (Sub-9), filed January 17, 1983. Applicant: BIGBEE TRANSPORTATION COMPANY, P.O. Box 3610, American Lane, Greenwich, CT 06836-3610. Representative: Raymond L. Pucci (same address as applicant), (703) 552-3513. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Reading, PA, and Indianapolis, IN, on the one hand, and, on the other, points in the U.S., under continuing contract(s) with Formpac Division, W. R. Grace and Company, of Reading, PA.

MC 156611 (Sub-2), filed January 24, 1983. Applicant: FOOD TRANSPORT, INC., 614 West Sycamore St., P.O. Box 446, Fayetteville, AR 72701. Representative: Grant M. Davis, 2217

Juneway Terrace, Fayetteville, AR 72701, (501) 443-3257. Transporting *feed additives*, between points in the U.S. (except AK and HI), under continuing contract(s) with Wade Jones Company, of Springdale, AR.

MC 152610 (Sub-1), filed January 24, 1983. Applicant: JETM DISTRIBUTION SYSTEMS, INC., 8424 W. 47th St., Lyons, IL 60534. Representative: Thomas M. O'Brien, 180 N. Michigan Ave., Suite 1700, Chicago, IL 60601, (312) 442-1010. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI). Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either (1) state that a petition has been filed under 49 U.S.C. 11343(e) seeking an exemption from the requirements of 49 U.S.C. 11343, (2) file an application under 49 U.S.C. 11343(A), or submit an affidavit indicating why such approval is unnecessary, to the Secretary's office. In order to expedite issuance of any authority please submit a copy of this filing to Team 1, Room 2379.

MC 165320, filed January 20, 1983. Applicant: GEORGE R. SCHALL, d.b.a. GEORGE R. SCHALL TRUCKING, Bulford Rd. R.D. #5, Shavertown, PA 18708. Representative: Jack L. Schiller, 111-56 76th Dr., Forest Hills, NY 11375. Transporting *general commodities* (except classes A and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Lijoma Sales, Inc., of Torrington, CT.

MC 165690, filed January 13, 1983. Applicant: INTERNATIONAL TRUCKING CO., INC., 201 Corpus Christi Street, Laredo, TX 78040. Representative: James R. Boyd, 1000 Perry Brooks Bldg., Austin, TX 78701, (512) 476-8066. Transporting *general commodities* (except classes A and B explosives, commodities in bulk and household goods), (a) between points in TX, and (b) between points in TX, on the one hand, and, on the other, points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 2 at 202-275-7030.

#### Volume No. OP2-049

Decided: January 31, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

MC 107012 (Sub-784), filed January 10, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN

46801. Representative: Gerald A. Burns, (same address as applicant), 219-429-2234. Transporting *general commodities* (except classes A and B explosives, commodities in bulk, and household goods), between points in the U.S., under continuing contract(s) with Ralston Purina Company, of St. Louis, MO.

MC 107012 (Sub-785), filed January 10, 1983. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Hwy 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant), 219-429-2110. Transporting *household goods*, between points in the U.S., under continuing contract(s) with Cable News Network, of Atlanta, GA.

MC 142723 (Sub-13), filed January 6, 1983. Applicant: BRISTOL CONSOLIDATORS, INC., 108 Riding Trail Lane, Pittsburgh, PA 15215. Representative: William A. Gray, 2310 Grant Bldg., Pittsburgh, PA 15219-2383, 412-471-1800. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S., under continuing contract(s) with Golden Dawn Foods, Inc., of Sharon, PA, a Division of Peter J. Schmitt Co., Inc.

MC 144023 (Sub-9), filed January 5, 1983. Applicant: KMT, INC., d.b.a. TAYLOR TRANSPORT, INC., 6335 Old Pineville Rd., Charlotte, NC 28210. Representative: Richard H. Peniston (same address as applicant), 704-527-5822. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in NC, SC, VA, GA, AL, TX, MS, and TN, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 147492 (Sub-10), (Correction), filed October 4, 1982, published in the *Federal Register* issue of October 19, 1982, and republished, as corrected, this issue. Applicant: MEL MOTOR EXPRESS, INC., P.O. Box 29-58, New Orleans, LA 70189. Representative: Sandra H. Roberson (same address as applicant), (504) 246-8221. Transporting (1) *steel drums and steel coils*, and (2) *such commodities as are dealt in or used by manufacturers and distributors of water heaters, air conditioners, and heating units*, between points in the U.S. (except AK and HI), under continuing contract(s) with Rheem Manufacturing, Inc., of Houston, TX.

**Note.**—The purpose of this republication is to clarify the commodity description and to include an omission of part (1) of the commodity description.

MC 156922 (Sub-1), filed January 6, 1983. Applicant: IMMANUEL FREIGHT LINES, INC., 13920 Mica St., Santa Fe Springs, CA 90670. Representative: Joseph Winter, 29 South LaSalle St., Chicago IL 60603, 312-263-2306. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Atlanta, GA, Chicago, IL, Davenport and Fort Madison, IA, and Kansas City, MO, on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX.

MC 164022, filed January 7, 1983. Applicant: JAMES D. ALLEN AND BETTY L. ALLEN d.b.a. ALLEN HOT SHOT SERVICE, 510 Washington St., NE, P.O. Box 666, Camden, AR 71701. Representative: Ralph Goza, Rt. 2, Box 85A, Stephens, AR 71764, (501) 836-9585. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in Ouachita and Calhoun Counties, AR, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 165433, filed January 4, 1983. Applicant: SANSON, INC., 6161 Perkins, Suite 2-B, Baton Rouge, LA 70808. Representative: Janet Boles Chambers, 8211 Goodwood Blvd., Suite C-1, Baton Rouge, LA 70806, 504-924-2686. Transporting (1) *liquids used in the drilling, bringing in, cleaning out, and working over of oil and gas wells*, (2) *waste materials*, (3) *drilling muds*, and (4) *petroleum and petroleum products*, between points in AL, AR, FL, LA, MS, NM, OK, and TX.

MC 165583, filed January 17, 1983. Applicant: CARE TRANSPORT, INC., 15 Middletown Ave., North Haven, CT 06473. Representative: Raymond Talipski, 121 South Main St., Taylor, PA 18517 717-344-8030. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk) (a) between points in New Haven County, CT, on the one hand, and, on the other, points in CT, and (b) between points in CT, on the one hand, and, on the other, points in the U.S. (except AK and HI).

#### Volume No. OP2-051

Decided: January 27, 1983.

By the Commission, Review Board No. 3, members Krock, Joyce, and Dowell.

MC 165412, (A) filed January 7, 1983. Applicant: BANNOCK PAVING COMPANY, INC., P.O. Box 4002, Pocatello, ID 83201. Representative: Dennis M. Olsen, 485 "E" St., Idaho Falls, ID 83402, (208) 523-4650. (1)(a) Transporting *general commodities*

(except classes A and B explosives and household goods), between points in the U.S., under continuing contract(s) with FMC Corporation, of Pocatello, ID, (2)(b) transporting, for or on behalf of the United States Government, *general commodities* (except used household goods, hazardous or secret materials and sensitive weapons), between points in the U.S., and (3)(b) as a *broker of general commodities* (except household goods), between points in the U.S.

**Note.**—Part (2) and (3)(b) published in the *Federal Register*, this issue, with "fitness applications".

MC 165742, filed January 17, 1983. Applicant: ROBERT LAFIN, d.b.a. ROBERTS TOWING, 4925 South Morgan, Chicago, IL 60609. Representative: Irwin Rozner, 134 North LaSalle St., Chicago, IL 60602, 312-782-6937. Transporting *disabled and replacement motor vehicles*, in wrecker service, between points in IL, IN, MI, WI, OH, IA, PA, NJ, NY, MN, MA, KY, TN, VA, WV, NC, SC, GA, FL, LA, MS, MO, and AL.

#### Volume No. OP2-056

Decided: February 1, 1983.

By the Commission, Review Board No. 1, members Parker, Chandler, and Fortier.

FF 652, filed January 13, 1983. Applicant: COSMOPOLITAN FREIGHT FORWARDERS, INC., 6715 Backlick Rd., Suite 203, Springfield, VA 22150. Representative: David Earl Tinker, 1000 Connecticut Ave., N.W., Suite 1112, Washington, DC 20036-5391, 202 887-5868. As a *freight forwarder*, in connection with the transportation of *household goods, furniture, fixtures, unaccompanied baggage, and used automobiles*, between points in the U.S.

MC 110683 (Sub-205), filed January 10, 1983. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Representative: Robert L. Stover (same address as applicant), 202 783-8131. Transporting *general commodities* (except household goods, classes A and B explosives and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Household Merchandising, Inc., of Des Plaines, IL.

MC 116142 (Sub-33), filed January 17, 1983. Applicant: BEVERAGE TRANSPORTATION, INC., 625 Eberts Lane, York, PA 17405. Representative: Christian V. Graf, David H. Radcliff, 407 N. Front St., Harrisburg, PA 17101, (717) 236-9318. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between those

points in the U.S. in and east of WI, IL, KY, TN, and MS.

**Note.**—Issuance of a certificate in this proceeding is subject to coincidental cancellation of carrier's existing certificates in MC-116142 (Sub-Nos. 1, 9, 14, 15, 17, 19, 20-23, 25, 27F, 29F, 30, E1, and all of Sub 8 except the portion which reads "new furniture, uncrated, from York, PA, to New Orleans, LA". Applicant has requested cancellation in this application.

MC 140723 (Sub-2), filed January 19, 1983. Applicant: ARLIN CURTISS, d.b.a. ARLIN CURTISS FEED SERVICE, P.O. Box 26, Montevideo, MN 56265. Representative: James B. Hovland, 525 Lumber Exchange Bldg., 10 South 5th St., Minneapolis, MN 55402, 612 340-0808. Transporting *such commodities*, as are dealt in by farm supply cooperatives, between points in the U.S. (except AK and HI).

MC 145583 (Sub-8), filed January 10, 1983. Applicant: XPRESS TRUCK LINES, INC., 2500 E. Butler St., Philadelphia, PA 19137. Representative: Anthony A. Cerone (same address as applicant), 215-535-5353. Transporting *general commodities* (except household goods, classes A and B explosives, commodities in bulk), between points in the U.S. (except AK and HI).

MC 164482, filed January 4, 1983. Applicant: SPRINGER EXPRESS CORP., 4195 Central Ave., Detroit, MI 48210. Representative: Eugene C. Ewald, 100 West Long Lake Rd.—Suite 102, Bloomfield Hills, MI 48013, 313-645-9600. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in IN, IL, OH, and the Lower Peninsula of MI.

MC 165563, filed January 6, 1983. Applicant: COLUMBINE NEWS SERVICE, INC., 745 Lipan St., Denver, CO 80204. Representative: Manuel Andrade, 770 Grant St., Suite 228, Denver, CO 80203, 303-861-4273. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between Denver, CO, on the one hand, and, on the other, points in CO, ID, KS, MT, NE, NM, UT, and WY. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either file an application under 49 U.S.C. 11343(a), submit an affidavit indicating why such approval is unnecessary, or file a petition seeking exemption under 49 U.S.C. 11343(e). In order to expedite issuance of any authority please submit a copy of the petition for exemption, the affidavit, or proof of filing the application(s) for common control to Team 2, Room 2379.

MC 165763, filed January 18, 1983. Applicant: L. MIKOWSKI & SONS, INC., P.O. Box 354, Suttons Bay, MI 49682. Representative: William B. Elmer, P.O. Box 801, Traverse City, MI 49685-0801, (616) 941-5313. Transporting *food and related products*, between points in Scott County, MS, and Brown, County, WI, and points in MI and IL, on the one hand, and, on the other, points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 3 at 202-275-5223.

#### Volume No. OP3-38

Decided: January 27, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier. (Member Parker not participating.)

FF 175 (Sub-6), filed January 13, 1983. Applicant: B. C. FORWARDING CO., LTD., 3600 S. Western Ave., Chicago, IL 60609. Representative: H. Barney Firestone, 180 N. Michigan Ave., Suite 1700, Chicago, IL 60601, (312) 263-1600. As a *freight forwarder*, in connection with the transportation of *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between ports of entry on the International boundary line between the U.S. and Canada at points in WA, ID, MT, ND and MN, on the one hand, and, on the other, points in WA, OR, NV, ID, OK, UT, AZ, NM, CO, WY, MT, ND, SD, AK and HI.

MC 1515 (Sub-325), filed January 11, 1983. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, AZ 85077. Representative: L. J. Clemens (same address as applicant), (602) 248-2942. Over regular routes, transporting *passengers*, (1) Between Bristol, VA and Memphis, TN: From Bristol over Interstate Hwy 81 to junction Interstate Hwy 40, then over Interstate Hwy 40 to Memphis, serving the off-route points of Kingsport, Rockwood, Crossville, Cookeville, and Lebanon, TN; (2) Between junction Interstate Hwy 40 and Interstate Hwy 75 (west of Knoxville, TN) and Chattanooga, TN: From junction Interstate Hwy 40 and Interstate Hwy 75 (west of Knoxville) over Interstate Hwy 75 to Chattanooga, serving the off-route point of Athens, TN; (3) Between Chattanooga, TN and junction Interstate Hwy 24 and Alternate U.S. Hwy 41 (south of Hopkinsville, KY): From Chattanooga over Interstate Hwy 24 to junction Alternate U.S. Hwy 41 (south of Hopkinsville), serving the off-route points of Monteagle, Manchester, Murfreesboro, and Clarksville, TN; (4) Between Shelbyville, TN and Tullahoma, TN: From Shelbyville over Alternate U.S. Hwy 41; (5) Between

Knoxville, TN and Bean Station, TN: From Knoxville over U.S. Hwy 11E to junction TN Hwy 32, then over TN Hwy 32 to Bean Station; (6) Between Bristol, VA and Winchester, VA: From Bristol over Interstate Hwy 81, serving the off-route points of Abingdon, Pulaski, Roanoke, Lexington, Staunton, and Harrisonburg, VA; (7) Between Richmond, VA and junction Interstate Hwy 64 and Interstate Hwy 81 (near Staunton, VA): From Richmond over Interstate Hwy 64 to junction Interstate Hwy 81 (near Staunton); (8) Between Lynchburg, VA and Washington, DC: From Lynchburg over U.S. Hwy 29 to junction Interstate Hwy 66, then over Interstate Hwy 66 to Washington; (9) Between Norfolk, VA and Suffolk, VA: From Norfolk over U.S. Hwy 58; (10) Between Petersburg, VA and Durham, NC: From Petersburg over Interstate Hwy 85, serving the off-route points of South Hill, VA, Henderson and Oxford, NC; and (11) Between junction Interstate Hwy 81 and Interstate Hwy 77 (near Ft. Chiswell, VA) and Charlotte, NC: From junction Interstate Hwy 81 and Interstate Hwy 77 (near Ft. Chiswell) over Interstate Hwy 77 to Charlotte, serving the off-route points of Hillsville, VA, and Mooresville, NC, and serving all intermediate points in (1) through (11) above.

**Note.**—Applicant seeks to provide regular-route service in interstate or foreign commerce and in intrastate commerce under 49 U.S.C. 10922(c)(2)(B) over the same route.

**Note.**—This regular route authority may be tacked with carrier's existing authority.

MC 2535 (Sub-2), filed January 13, 1983. Applicant: N L & B TRANSPORTATION CORP., 4 May Ave., Quaker Hill, CT 06375. Representative: Gerald A. Joseloff, 410 Asylum St., Hartford, CT 06103, (203) 728-0700. Transporting *food and related products*, between points in New London County, CT, on the one hand, and, on the other, Newark, NJ, points in Hillsboro County, NH and NY.

MC 30045 (Sub-12), filed January 14, 1983. Applicant: KITCHELL TRUCK LINES, INC., Ipswich, SD 57451. Representative: Val M. Higgins, 1600 TCF Tower, 121 S. 8th St., Minneapolis, MN 55402. Transporting *cement*, between points in SD, on the one hand, and, on the other, points in ND and MN.

MC 73444 (Sub-5), filed January 11, 1983. Applicant: FRANK L. CASTINE, INC., d.b.a. CASTINE MOTOR SERVICE, 1235 Chestnut St., Athol, MA 01331. Representative: Donald R. Castine, (same address as applicant), (617) 249-9105. Transporting *household goods*,

between points in the U.S. (except AK and HI).

MC 110364 (Sub-9), filed January 17, 1983. Applicant: OHIO CARRIER CORPORATION, Rt. 2, Box 429, Dover, OH 44622. Representative: James K. Burtch, 100 E. Broad St., Columbus, OH 43215, (614) 228-1541. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in Coshocton, Guernsey, and Richland Counties, OH, on the one hand, and, on the other, those points in the U.S. in and east of MN, IA, MO, AR and LA.

MC 123074 (Sub-24), filed January 14, 1983. Applicant: M. L. ASBURY, INC., 1100 S. Oakwood, Detroit, MI 48217. Representative: Robert E. McFarland, 2855 Coolidge, Ste. 201A, Troy, MI 48064, (313) 649-6650. Transporting *commodities in bulk*, between points in the U.S. (except AK and HI), under continuing contract(s) with Ashland Oil, Inc., of Ashland, KY.

MC 128205 (Sub-111), filed January 14, 1983. Applicant: BULKOMATIC TRANSPORT COMPANY, 12000 South Doty Avenue, Chicago, IL 60628. Representative: E. Stephen Heisley, 1919 Pennsylvania Ave., NW, Suite 500, Washington, DC 20006, (202) 828-5015. Transporting *chemicals and related products*, between points in the U.S. (except AK and HI), under continuing contract(s) with C-I-L Chemicals, Inc. of River Rouge, MI.

MC 136605 (Sub-169), filed January 17, 1983. Applicant: DAVIS TRANSPORT, INC., P.O. Box 8129, Missoula, MT 59807. Representative: William E. Saliski, 2 Commerce St., P.O. Box 8255, Missoula, MT 59807, (406) 543-8369. Transporting *general commodities* (except classes A and B explosives, household goods) between points in the U.S. (except HI).

MC 149275 (Sub-2), filed January 14, 1983. Applicant: GNAN TRUCKING, INC., RR 8, Box 367, Brainerd, MN 56401. Representative: David Gnan (same address as applicant), (218) 829-8882. Transporting (1) *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in MN, on the one hand, and, on the other, points in the U.S. (except AK and HI), and (2) *plastic products and metal products*, between points in the U.S. (except AK and HI).

MC 152285 (Sub-4), filed January 14, 1983. Applicant: PACKERLAND TRANSPORT INC., 2580 University Ave., P.O. Box 1184, Green Bay, WI 54305. Representative: Richard A. Westley, 4506 Regent St., Suite 100, P.O. Box 5086, Madison, WI 53705-0086, (608) 238-3119. Transporting *general*

*commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC 157905 (Sub-1), filed January 14, 1983. Applicant: RAY HARMON & SON, INC., Route 4, Box 280, Savannah, TN 38372. Representative: John Davidson, Box 1456, 111 Hwy 72 West, Corinth, MS 38834, (601) 287-5452. Transporting *such commodities* as are dealt in or used by manufacturers of mobile homes, modular buildings, and modular building sections between points in the U.S.

MC 159355, filed January 17, 1983. Applicant: BASTIN VERHOEVEN DELIVERY, INC., 501 W. 172nd St., South Holland, IL 60473. Representative: Thomas M. O'Brien, 180 N. Michigan Ave., Suite 1700, Chicago, IL 60601, (312) 263-1600. Transporting *metal and metal products*, between points in IA, IL, IN, KS, KY, MI, MN, MO, ND, NE, OH, SD, TN and WI.

MC 163654, filed January 14, 1983. Applicant: WILLIAM R. GOWARD, d.b.a. WEPECO, 6114 Peabody St., Ling Beach, CA 90808. Representative: Milton W. Flack, 8484 Wilshire Blvd., #840, Beverly Hills, CA 90211, (312) 655-357. Transporting *food and related products and furniture*, between Los Angeles, CA, on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 165694, filed January 13, 1983. Applicant: KOLTRUX, INC., R. D. 3, Box 255A, Clearfield, PA 16830. Representative: Dwight L. Koerber, Jr., 110 No. Second St., P. O. Box 1320, Clearfield, PA 16830, (814) 765-9611. Transporting *coal and coal products*, between points in Clearfield, Jefferson and Elk Counties, PA, on the one hand, and, on the other, points in NY and MD.

MC 165704, filed January 14, 1983. Applicant: JESSE M. RODERICK, d.b.a. SONNY'S MOTOR LINES, P. O. Box 2560, Fall River, MA 02721. Representative: Frederick T. O'Sullivan, P. O. Box 2184, Peabody, MA 01960, (617) 535-5430. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Deep Rock, Inc., of West Barrington, RI, J. Little Mercer Co., Inc., of Rehoboth, MA, and Manhattan Bottling Co., Inc., of New Bedford, MA.

MC 165715, filed January 17, 1983. Applicant: BUCKEYE CONCRETE CO., 2100 W. Third St., Cleveland, OH 44113. Representative: Richard H. Brandon, 220 W. Bridge St., P. O. Box 97, Dublin, OH 43017, (614) 889-2531. Transporting *general commodities* (except classes A

and B explosives and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with The Cleveland Builders Supply Co. of Cleveland, OH.

MC 165785, filed January 17, 1983. Applicant: HAGER CITY EXPRESS COMPANY, 1622 So. Park St., Red Wing, MN 55066. Representative: William E. Schroeder (same address as applicant), (612) 388-4148. Transporting *rubber and plastic products*, between points in the U.S. (except AK and HI).

For the following, please direct status calls to Team 4 at 202-275-7669.

#### Volume No. OP4-055

Decided: January 31, 1983.

By the Commission, Review Board No. 1, Members Parker, Chandler, and Fortier.

MC 165877, filed January 24, 1983. Applicant: ASHCOAL LIMITED, INC., 2401 Carter Ave., Ashland, KY 41101. Representative: Stephen J. Habash, 100 E. Broad St., Columbus, OH 43215, (614) 228-1541. Transporting *coal and coal products*, between points in KY, NC, OH, TN, VA, and WV, on the one hand, and, on the other, points in CA, IL, KY, MI, NC, OH, PA, TN, VA, and WV.

MC 165886, filed January 25, 1983. Applicant: MIKE BROOKS, Box 443, Knoxville, IA 50138. Representative: Cecil L. Goettsch, 1100 Des Moines Bldg., Des Moines, IA 50307, (515) 243-4191. Transporting *fertilizer and fertilizer products*, between points in IA and MO, on the one hand, and on the other, points in IA, MO, WI, IL, and MN.

For the following, please direct status calls to Team 5 at 202-275-7289.

#### Volume No. OP5-33

Decided: January 26, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 107229 (Sub-13), filed January 29, 1982. Applicant: AMODIO MOVING, INC., 600 East St., New Britain, CT 06014. Representative: Robert J. Gallagher, 1000 Connecticut Ave., NW, Suite 1200, Washington, D.C. 20036, (202) 785-0024. Transporting *general commodities*, (except classes A and B explosives and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Chesebrough Pond's Inc., of Greenwich Ct. Condition: The person or persons who appear to be engaged in common control of another regulated carrier must either (1) state that a petition has been filed under 49 U.S.C. 11343(e) seeking an exemption from the requirements of 49 U.S.C. 11343, (2) file an application under 49 U.S.C. 11343(A), or (3) submit an affidavit indicating why

such approval is unnecessary, to the Secretary's office. In order to expedite issuance of any authority, please submit a copy of this filing to Team 5, Room 2414.

MC 145629 (Sub-8), filed January 17, 1983. Applicant: FUCHS, INC., R.R. 1, Box 576, Sauk City, WI 53583. Representative: Wayne W. Wilson, 150 E. Gilman St., Madison, WI 53703, 608-256-7444. Transporting *general commodities*, (except classes A and B explosives, and household goods), between points in the U.S. (except AK and HI), under continuing contract(s) with Cardinal IG Company of Spring Green, WI and Mounds Agricultural Co., Inc. of Middleton, WI.

MC 148679 (Sub-3), filed January 17, 1983. Applicant: SHEL PRODUCTS, INC., d.b.a. SHELTON TRUCKING, 2211 E. DuPont Ave., Belle, WV 25015. Representative: John M. Friedman, 2930 Putnam Ave., P.O. Box 426, Hurricane, WV 25526, 304-562-3460. Transporting *general commodities*, (except classes A and B explosives, household goods, and commodities in bulk), between points in IL, OH, PA and WV on the one hand, and, on the other, points in the U.S. (except AK and HI).

MC 155209 (Sub-2), filed January 17, 1983. Applicant: DOT TRANSPORTATION, INC., 1825 Midland Ave., Fort Smith, AR 72904. Representative: Don Garrison, P.O. Box 1065, Fayetteville, AR 72702, 501-521-8121. Transporting *food and related products*, between points in the U.S. (except AK and HI).

MC 155658 (Sub-10), filed January 17, 1983. Applicant: D. F. SYSTEM, INC., 95 Washington St., Foxboro, MA 02035. Representative: Robert G. Parks, 20 Walnut St., Suite 101, Wellesley Hills, MA 02181, 617-235-5571. Transporting *such commodities* as are dealt in or used by manufacturers and distributors of electrical switches, circuit breakers and switch and circuit boxes, between points in the U.S. under continuing contract(s) with Crouse-Hinds, Arrow Hart Division, of East Hartford, CT.

MC 161279, filed January 13, 1983. Applicant: ROZANNE WAITS, d.b.a. B & R AUTO SALES & TRANSPORT, 2251 Stieber, Westland, MI 48185. Representative: Paul D. Borghesani, Suite 300, Communicana Bldg., 421 South Second, Elkhart, IN 46516, (219) 293-3597. Transporting *transportation equipment*, between points in the U.S. (except AK and HI).

MC 161598 (Sub-2), filed January 10, 1983. Applicant: EASTSIDE DISTRIBUTORS, INC., 1801 East Memorial Blvd., Lakeland, FL 33801.

Representative: Raymond Talipski, 121 South Main St., Taylor, PA 18517, (717) 344-8030. Transporting *general commodities* (except household goods, classes A and B explosives, and commodities in bulk), between points in the U.S. (except AK and HI), under continuing contract(s) with Gold Bond Ice Cream of Florida, Inc., of Ocala, FL.

MC 164058, filed January 17, 1983. Applicant: W. S. DEANE TRUCKING, 32411 124th St., S.E., Sultan, WA 98294. Representative: George LaBissoniere, 15 S. Grady Way, Suite 239, Renton, WA 98055, 206-228-3807. Transporting (1) *such commodities* as are dealt in or used by food and restaurant supply wholesalers, and (2) *wood products*, between points in WA, OR and CA under continuing contract(s) with Bargreen Restaurant Supply and Crown Distributing Co., Inc. both of Everett, WA and F.A. Koenig & Sons of Sultan, WA.

#### Volume No. OP5-35

Decided: January 27, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing.

MC 79658 (Sub-6), filed January 10, 1983. Applicant: ATLAS VAN LINES, INC., 1212 St. George Road, P.O. Box 509, Evansville, IN 47711. Representative: Robert C. Mills (same address as applicant), 812-424-2222. Transporting *household goods* between points in the U.S., under continuing contract(s) with Holiday Inns, Inc., of Memphis, TN.

MC 140889 (Sub-31), filed January 17, 1983. Applicant: FIVE STAR TRUCKING, INC., 1638 Pioneer Way, El Cajon, CA 92020. Representative: Ignatius B. Trombetta, One Public Square #1001, Cleveland, OH 44113, (216) 589-0448. Transporting *general commodities* (except classes A and B explosives, and household goods) between points in the U.S. (except AK and HI), under continuing contract(s) with Triangle Distributing, Inc., of Columbus, OH.

MC 157479 (Sub-2), filed January 3, 1983. Applicant: COBRA COACH LINES, INC., 3233 Laconia Avenue, Bronx, NY 10469. Representative: Edward F. Bowes, Seven Becker Farm Road, P.O. Box Y, Roseland, NJ 07068, (201) 992-2200. Over *regular* routes transporting *passengers*, between Bronx, NY and Atlantic City, NJ, from Bronx over the George Washington Bridge to junction Interstate Hwy. 95, then over Interstate Hwy. 95 to junction NJ Turnpike, then over NJ Turnpike to junction Garden State Parkway in Woodbridge, NJ, then over Garden State Parkway to junction Atlantic City

Expressway, then over Atlantic City Expressway to Atlantic City, NJ and return over the same routes, serving all intermediate points.

**Note.**—Applicant seeks to provide regular route service in interstate or foreign commerce.

MC 160789 (Sub-4), filed January 13, 1983. Applicant: RAM EXPRESS COMPANY, 114 Wabash Street, Pittsburgh, PA 15220. Representative: Kevin W. Walsh, Pillar and Mulroy, 1500 Bank Tower, 307 Fourth Ave., Pittsburgh, PA 15222. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

**Note.**—Applicant seeks to convert contract carrier authority to common carrier authority.

MC 165098, filed January 19, 1983. Applicant: BOWLING GREEN FREIGHT INCORPORATED, Graham St. Route 14, Box 68C, Bowling Green, KY 42101. Representative: Victor Grant (same address as applicant), 502-842-4165. Transporting *general commodities* (except classes A and B explosives, household goods, and commodities in bulk), between points in the U.S. (except AK and HI).

MC filed January 17, 1983. Applicant: TRENTON TRUCK LEASING SERVICE, INC., P.O. Box 7610, Trenton, NJ 08628. Representative: Harold L. Reckson, 33-28 Halsey Rd., Fair Lawn, NJ 07410. Transporting *general commodities*, (except classes A and B explosives, household goods, and commodities in bulk), between Philadelphia, PA, and points in NJ, on the one hand, and, on the other, points in the U.S. (except AK and HI).

#### Volume. No. OP5-37

Decided: January 28, 1983.

By the Commission, Review Board No. 3, Members Krock, Joyce, and Dowell.

MC 165168, filed December 13, 1982. Applicant: N & W TRUCKING, INC., Route 1, Box 199-A, Baldqyn, MS 38824. Representative: Betty Massengill, Brickyard St., Baldwin, MS 38824, (601) 365-3646. Transporting *furniture*, between points in the U.S. (except AK and HI), under continuing contract (s) with Allied Fine Furniture, Inc., of Shannon, MS.

MC 165559, filed January 7, 1983. Applicant: RALSON TRUCK LINES, INC., 10909 Sheldon Rd., Houston, TX 77049. Representative: C.W. Ferebee, 3910 FM 1960 West, Suite 106, Houston, TX 77068, (713) 537-8156. Transporting *mercantile commodities* Between points in AL, AR, CA, CO, KS,

LA, MS, MT, NE, NM, ND, OK, SD, UT, TX, and WY.

#### Volume. No. OP5-40

Decided: January 31, 1983.

By the Commission, Review Board No. 2, Members Carleton, Williams, and Ewing. (Member Ewing not participating.)

MC 119049 (Sub-6), filed January 18, 1983. Applicant: TEK VAN LINES, INC., 150 Manton Avenue, Providence, RI 02909. Representative: Robert J. Gallagher, 1000 Connecticut Avenue, N.W., Suite 1200, Washington, DC 20036, (202) 785-0024. Transporting *Household goods*, between points in the U.S. (except MT, ND and SD).

MC 138899 (Sub-7), filed January 17, 1983. Applicant: GREEN RIVER TRANSPORTATION CO., INC., P.O. Box 634, Cental City, KY 42330. Representative: Ray S. Stone, (same address as applicant), (502) 754-3249. Transporting *aluminum, aluminum articles, and aluminum dross*, between points in the U.S., under continuing contract(s) with Barmet of Kentucky, Inc., of Livia, KY, Barmet Industries, of Akron, OH and Barmet of Indiana, of Rockport, IN.

MC 151899 (Sub-8), filed January 20, 1983. Applicant: BLACKHAWK EXPRESS INC., 235 Hake St., Fort Atkinson, WI 53538. Representative: Richard D. Armstrong, 925 Hyland Dr., Stoughton, WI 53589, 608-873-8929. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in bulk), between points in the U.S. (except AK and HI).

MC 160549 (Sub-1), filed January 20, 1983. Applicant: CARGO EXPRESS CO., INC., 7107 Kennedy Ave., Hammond, IN 46323. Representative: David A. Sutherland, 1150 Connecticut Ave., NW, Suite 400, Washington, DC 20036, (202) 452-6800. Transporting *salt, salt products, and food seasoning compounds*, between points in New Iberia Parish, LA, and Ban Zandt County, TX, on the one hand, and, on the other, points in AL, AR, BL, GA, KY, LA, MS, NC, SC, TN, TX, and VA.

MC 165808, filed January 19, 1983. Applicant: JDV FREIGHT LINES, INC., 1090 Fairchild Rd., Winston-Salem, NC 27105. Representative: J. D. Vickers (same address as applicant), 919-767-6863. Transporting *general commodities* (except classes A and B explosives, household goods and commodities in

bulk), between points in the U.S. (except AK and HI).

Agatha L. Mergenovich,  
Secretary.

[FR Doc. 83-3282 Filed 2-7-83; 8:45 am]

BILLING CODE 7035-01-M

## DEPARTMENT OF LABOR

### Employment and Training Administration

#### Act III, Inc., a Division of Jonathan Logan, Inc. Amended Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In the matter of:

TA-W-	Plant	Location
13,026	Act III (Dist. Center).....	Spartanburg, SC.
13,027	Andrew Knit.....	Tuscaloosa, AL.
13,031	Debra Knit.....	Northport, AL.
13,032	Eufaula Fashions.....	Eufaula, AL.
13,036	Livingston Fashions.....	Livingston, AL.
13,038	Margaret Fashions.....	Panama City, FL.
13,039	Oxford Fashions.....	Oxford, AL.
13,041	Roanoke Fashions.....	Roanoke, AL.
13,044	Stevens Fashions.....	Carrollton, AL.

In accordance with Section 223 of the Trade Act of 1974, the Department of Labor issued a Notice of Determination Regarding Eligibility to Apply for Worker Adjustment Assistance on December 10, 1982 applicable to all workers engaged in employment related to the production of ladies' jackets or blouses at the above mentioned locations of Act III, Inc., a division of Jonathan Logan, Inc. The Notice of Determinations was published in the *Federal Register* on December 21, 1982, (47 FR 56936).

On the basis of additional information, the Office of Trade Adjustment Assistance, on its own motion, reviewed the determinations for the instant plants of Act III. The additional information revealed that worker separations occurred immediately prior to the October 18, 1981 impact date set in the notice of Determinations for the instant plants.

The Department intended to certify all Act III workers engaged in employment related to the production of ladies' jackets or blouses without an interval between their previous certification. The previous certification for these workers (TA-W-5527, Act III, Distribution Center, Spartanburg, South Carolina; TA-W-5528 Andrew Knit, Tuscaloosa, Alabama; TA-W-5532 Debra Knit, Northport, Alabama; TA-W-5533 Eufaula Fashions, Eufaula, Alabama; TA-W-5537 Livingston Fashion,

Livingston, Alabama; TA-W-5543 Oxford Fashions, Oxford, Alabama; TA-W-5545 Roanoke Fashions, Roanoke, Alabama; and TA-W-5548 Stevens Fashions, Carrollton, Alabama) was issued on August 7, 1979 and expired on August 7, 1981. This notice was subsequently revised and issued on October 18, 1979.

The Notice of Determinations applicable to TA-W-13,026, 13,027, 13,031 13,032, 13,036 13,039 13,041 and 13,044 is hereby amended and issued as follows:

"All workers of the following locations of Act III, Incorporated, a division of Jonathan Logan, Incorporated, engaged in employment related to the production of ladies' jackets or blouses, who became totally or partially separated from employment on or after August 8, 1981, and before the termination dates listed below are eligible to apply for adjustment assistance under Section 223 of the Trade Act of 1974."

TA-W-	Plant	Termination date
13,026	Act III Distribution Center, Spartanburg, SC	
13,027	Andrew Knit, Tuscaloosa, AL	
13,031	Debra Knit, Northport, AL	
13,032	Eufaula Fashions, Eufaula, AL	02/28/82
13,036	Livingston Fashions, Livingston, AL	09/15/82
13,039	Oxford Fashions, Oxford, AL	02/28/82
13,041	Roanoke Fashions, Roanoke, AL	
13,044	Stevens Fashions, Carrollton, AL	

I further determine that all workers at Margaret Fashions, Panama City, Florida are denied eligibility to apply for adjustment assistance benefits under Section 223 of the Trade Act of 1974. Signed at Washington, D.C., this 28th day of January, 1983.

Robert O. Deslongchamps,  
Acting Deputy Administrator, Unemployment Insurance Service.

[FR Doc. 83-3316 Filed 2-7-83; 8:45 am]

BILLING CODE 4510-30-M

#### [TA-W-13, 350 etc.]

#### Puna Sugar Co., Ltd., et al.; Application for Reconsideration

In the matter of: TA-W-13,350, Puna Sugar Company, Ltd., Leaaui, HI; TA-W-13,526, Theodavies Hamakua Sugar Company, Paauilo, HI; TA-W-13,534, Hawaiian Commercial & Sugar Company, Puunene, HI; TA-W-13,535, Hilo Coast Processing Company, Pepeeko, HI; TA-W-13,539, Kau Sugar Company, Inc., Pahala, HI; TA-W-13,540, Kekaha Sugar Company, Ltd., Kekaha, HI; TA-W-13,541, Lihue Plantation Company, Lihue, HI; TA-W-13,542, Mauna Kea Sugar Company, Inc., Papaikou, HI; TA-W-13,543, McBryde Sugar Company, Ltd., Eleele, HI; TA-W-



13,545, Oahu Sugar Company, Ltd., Waipahu, HI; TA-W-13,546, Olokele Sugar Company, Ltd., Kaunakani, HI; TA-W-13,547, Pioneer Mill Company, Ltd., Lahaina, HI; TA-W-13,550, Wailuku Sugar Company, Inc., Waialua, HI; TA-W-13,551, Waialua Sugar Company, Ltd., Waialua, HI; affirmative determination regarding application for reconsideration.

By an application dated January 19, 1983, after being granted a filing extension, Counsel for the International Longshoremen's and Warehousemen's Union requested administrative reconsideration of the Department of Labor's Negative Determinations Regarding Eligibility to Apply for Worker Adjustment Assistance on behalf of the workers and former workers of the above mentioned facilities located in Hawaii. The determinations were published in the *Federal Register* on December 3, 1982 and on December 14, 1982 (47 FR 54573 and 47 FR 56071).

Counsel for the International Longshoremen's and Warehousemen's Union, after being granted a filing extension, claims the high fructose corn sweeteners (HFCS) was not an important contributing factor to the overall decrease in the sale of refined sugar as stated in the decision document. He also claims the HFCS is not an article which is directly competitive with refined sugar as the Department contends.

The union also claims that the decisions issued in 1977 (TA-W-1726, 1744 and 1761) certifying workers and former workers of sugar cane and raw sugar at various Hawaiian companies were strikingly similar to the denied cases and therefore warrant review if denied within this context.

Moreover, the union claims that the data used by the Department on the increased consumption of HFSC is in error since the data used included Glucose and Dextrose rather than HFSC alone.

Finally, the union claims the paramount, leading and substantial cause and singularly important contribution to the demise of Puna Sugar and other Hawaiian producers was the flood of foreign sugar into the country in 1981 which dramatically reduced the price of raw and refined sugar below domestic production costs.

#### Conclusion

After review of the application, I conclude that the claims are of sufficient weight to justify reconsideration of the Department of Labor's prior decision. The application is, therefore, granted.

Signed at Washington, D.C. this 1st day of February, 1983.

Harold A. Bratt,

Deputy Director, Office of Program Management, Unemployment Insurance Service.

[FR Doc. 83-3327 Filed 2-7-83; 8:45 am]

BILLING CODE 4510-30-M

#### Solicitation of Grant Applications

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Notice of Solicitation of Grant Applications.

**SUMMARY:** This notice sets forth the procedure and schedule for the solicitation of applications for grants and the allocation for programs for eligible youth ages 14 through 21 who are members of migrant and other seasonally employed farmworker families for Program Year 1983. These programs are authorized under Title IV, Part A, Subparts 2 and 3 of the Comprehensive Employment and Training Act (CETA) at Sections 433(a)(4) and 423(b) and Section 181 of the Jobs Training Partnership Act (JTPA).

*Condition for Funding:* Applicants may be denied further consideration should they fail to meet minimum standards for responsible grantees including, but not limited to, past unsatisfactory performance. Poor performance, therefore, either in a 303 or a youth program, may serve to disqualify an applicant.

#### FOR FURTHER INFORMATION CONTACT:

Mr. A. E. Berndt, Chief, Division of Farmworker and Rural Employment Programs, Employment and Training Administration, U.S. Department of Labor, 601 D Street, NW., Rm. 7208, Washington, D.C. 20213; Telephone: (202) 376-7124.

**SUPPLEMENTARY INFORMATION:** The Division of Farmworker and Rural Employment Programs, Employment and Training Administration, U.S. Department of Labor announces the availability of funds under Title IV, Part A, Subparts 2 and 3 of the Comprehensive Employment and Training Act (CETA) at Sections 433(a)(4) and 423(b) and Section 181 of the Jobs Training Partnership Act (JTPA), and the schedule for solicitation of applications for and the award of funds to implement programs for eligible youth who are members of migrant and seasonal farmworker families for Program Year 1983. A total of \$3.84 million is available for these programs. Funds will be awarded on a special competitive basis, pursuant to the

regulations at 29 CFR 97.900 *et seq.* to grantees operating Section 303 programs for Program Year 1983 in accordance with section 689.104(b)(1).

Because 1983 is also a transition year into operations under JTPA, which stresses training leading to long-term employability, such training will be emphasized in these youth projects.

Grants will be awarded for not less than \$150,000 and not more than a million; the Department may, however, award more than \$1,000,000 to a single grant under special circumstances.

Grantees operating multi-State Programs may submit applications for all States in which they currently operate Section 303 grants. Solicitation for Grant Application (SGA) packages will be mailed to all eligible applicants on or about February 9, 1983. The SGA will contain the guidelines and specifications to which eligible applicants must adhere in preparing an application. Applications will not exceed thirty (30) pages 8½ x 11 of double-space, unrounded type, excluding budget pages.

This publication constitutes formal notice that applications for funds for this target group must be hand delivered or posted by registered or certified mail no later than March 15, 1983.

Each eligible applicant must submit three copies of the application(s) to the address listed below: U.S. Department of Labor, Employment and Training Administration, 601 D Street, NW., Room 5118, Patrick Henry Building, Washington, D.C. 20213., Attn: Grant Officer.

Eligible applicants are required to notify both the Division of Farmworker and Rural Employment Programs and the appropriate A-95 clearinghouse(s) by Preapplication for Federal Assistance, Standard Form 424, posted by registered or certified mail no later than February 22, 1983, so that appropriate arrangements may be made for the prompt review of the grant application. Copies of the formal grant application(s) must also be sent to the appropriate A-95 clearinghouse(s) for comment at the same time the grant application(s) is mailed to the above address.

All grant applications received bearing postmarks after March 15, 1983, shall be returned without consideration. No deviation in this condition shall be granted. (All hand delivered grant applications will be accepted daily between the hours of 8:15 a.m. and 4:45 p.m. at the address listed above. All eligible applicants will be given a receipt bearing a time and date of delivery.) Applications received after



4:45 p.m. on March 15, 1983, shall be returned without consideration. No exceptions to this rule will be made.

Grant applications will be subject to an objective and fair review.

It is expected that Grant Awards will be made on or about July 1, 1983. Consultation and technical assistance relative to the development of an application is available upon request from the Division of Farmworker and Rural Employment Programs, (202) 376-7124.

Signed at Washington, D.C., this 2nd day of February, 1983.

Janet Sten,

*Grant Officer, Employment and Training Administration.*

[FR Doc. 83-3328 Filed 2-7-83; 8:45 am]

BILLING CODE 4510-30-M

### Labor Surplus Area Classifications Under Executive Orders 12073 and 10582; Additions to Annual List of Labor Surplus Areas

**AGENCY:** Employment and Training Administration, Labor.

**ACTION:** Notice.

**DATE:** The additions to the annual list are effective on February 1, 1983.

**SUMMARY:** The purpose of this notice is to announce additions to the annual list of labor surplus areas.

**FOR FURTHER INFORMATION CONTACT:** James W. Higgins, United States Employment Service (Attention: TEEPA) 601 D Street, NW., Washington D.C. 20213. Telephone: 202-376-6890

**SUPPLEMENTARY INFORMATION:** Executive Order 12073 requires executive agencies to emphasize procurement set-asides in labor surplus areas. The Secretary of Labor is responsible under that AOrder for classifying and designating areas as labor surplus areas.

Under Executive Order 10582 executive agencies may reject bids or offers of foreign materials in favor of the lowest offer by a domestic supplier, provided that the domestic supplier undertakes to produce substantially all of the materials in areas of substantial unemployment as defined by the Secretary of Labor. The preference given to domestic suppliers under Executive Order 10582 has been modified by Executive Order 12260. Federal Procurement Regulations Temporary Regulation 57 (41 CFR Chapter 1, Appendix), issued by the General Services Administration on January 15, 1981 (46 FR 3519), implements Executive Order 12260. Executive agencies should refer to Temporary Regulation 57 procurements involving foreign

businesses or products in order to assess its impact on the particular procurements.

The Department of Labor's regulations implementing Executive Orders 12073 and 10582 are set forth at 20 CFR Part, 654, Subparts A and B. Subpart A requires the Assistant Secretary of Labor to classify jurisdictions as labor surplus areas pursuant to the criteria specified in the regulations and to publish annually a list of labor surplus areas. Pursuant to those regulations the Assistant Secretary of Labor published the annual list of labor surplus areas on June 4, 1982 (47 FR 24474).

Subpart B of Part 654 states that an area of substantial unemployment for purposes of Executive Order 10582 is any area classified as a labor surplus area under Subpart A. Thus, labor surplus areas under substantial unemployment under Executive Order 10582.

The areas described below have been classified by the Assistant Secretary of Labor as labor surplus areas pursuant to 20 CFR 654.5 (c) and are added to the annual list of labor surplus areas, effective February 1, 1983. The following additions to the annual list of labor surplus areas are published for the use of all Federal agencies in directing procurement activities and locating new plants or facilities.

Signed at Washington, D.C. on January 28, 1983.

Albert Angrisani,

*Assistant Secretary of Labor.*

### Additions to the Annual List of Labor Surplus Areas

February 1, 1983.

<i>Labor Surplus Area</i>	<i>Civil Jurisdiction Included</i>
<b>Illinois</b>	
Springfield City	Springfield City in Sangamon County
<b>Iowa</b>	
Lee County	Lee County
<b>Maryland</b>	
Baltimore County	Baltimore County
<b>Nebraska</b>	
Lincoln County	Lincoln County
<b>New Hampshire</b>	
Coo County	Coo County
<b>Ohio</b>	
Darke County	Darke County Balance of Stark County Stark County less Canton City
<b>Oregon</b>	
Balance of Clackamas County	Clackamas County less Portland City

Portland City	Portland City in Clackamas and Multnomah Counties
Umatilla County	Umatilla County
Yamhill County	Yamhill County

### Pennsylvania

Allentown City	Allentown City in Lehigh County
Balance of Erie County	Erie County less Erie City
Franklin County	Franklin County
Mercer County	Mercer County
Union County	Union County
Venango County	Venango County
Washington County	Washington County

### Rhode Island

Warren Town	Warren Town
West Warwick Town	West Warwick Town

[FR Doc. 83-3234 Filed 2-7-83; 8:45 am]

BILLING CODE 4510-30-M

### Job Training Partnership Act (Pub. L. 97-300); Allocations Under Title III, Section 301(b); Employment and Training Assistance for Dislocated Workers

**AGENCY:** Employment and Training Administration, Labor.

**SUMMARY:** This notice sets forth the Fiscal Year 1983 amounts allotted to States for programs under Title III, Section 301(b) of the Job Training Partnership Act (JTPA). Publication of these allotments is required by Section 162(b) of JTPA.

**FOR FURTHER INFORMATION CONTACT:** Robert N. Colombo, Acting Director, Office of Employment and Training Programs, Employment and Training Administration, 601 D Street, N.W., Washington, D.C. 20213, (202) 376-6093.

**SUPPLEMENTARY INFORMATION:** Title III of the Job Training Partnership Act authorizes a program to provide employment and training assistance for dislocated workers. Fiscal Year 1983 funding in the amount of \$25 million has been made available for this program through Pub. L. 97-377. Seventy-five percent of these funds are now being allotted to States by formula pursuant to Section 301(b) of the Act. Obligation of funds to the States is contingent on State agreement to operate the displaced worker programs in accordance with the provisions of the Act and applicable regulations including the requirements for State matching of Federal funds pursuant to Section 304 of the Act. The amount to be distributed to each State is as follows.

Signed this third day of February 1983.

Joyce Kaiser,  
Associate Assistant Secretary for  
Employment and Training.

State	Allotment
Alabama.....	460,786
Alaska.....	33,967
Arizona.....	179,685
Arkansas.....	168,849
California.....	1,937,839
Colorado.....	148,254
Connecticut.....	169,379
Delaware.....	47,429
District of Columbia.....	67,863
Florida.....	569,017
Georgia.....	303,431
Hawaii.....	42,071
Idaho.....	67,776
Illinois.....	1,204,194
Indiana.....	646,670
Iowa.....	215,461
Kansas.....	93,189
Kentucky.....	307,270
Louisiana.....	333,010
Maine.....	68,825
Maryland.....	342,275
Massachusetts.....	361,786
Michigan.....	1,446,231
Minnesota.....	231,339
Mississippi.....	200,123
Missouri.....	376,949
Montana.....	57,127
Nebraska.....	51,991
Nevada.....	70,994
New Hampshire.....	48,022
New Jersey.....	560,493
New Mexico.....	83,832
New York.....	1,261,093
North Carolina.....	406,781
North Dakota.....	25,801
Ohio.....	1,288,463
Oklahoma.....	80,853
Oregon.....	279,206
Pennsylvania.....	1,118,333
Puerto Rico.....	433,201
Rhode Island.....	73,802
South Carolina.....	284,058
South Dakota.....	20,125
Tennessee.....	434,814
Texas.....	605,854
Utah.....	79,488
Vermont.....	27,012
Virginia.....	282,792
Washington.....	431,351
West Virginia.....	210,139
Wisconsin.....	460,589
Wyoming.....	13,141
Virgin Islands.....	16,387
American Samoa.....	3,219
Guam.....	13,402
Trust Territories.....	3,753
Northern Marianas.....	486

[FR Doc. 83-3539 Filed 2-7-83; 9:51 am]

BILLING CODE 4510-30-M

## Office of the Secretary

### Privacy act of 1974; Amendment of Routine Uses

**AGENCY:** Labor Department.

**ACTION:** Amendment of routine uses applicable to Privacy Act systems of records, Employment Standards Administration.

**SUMMARY:** The Department of Labor is adding a new routine use to the routine uses already published for the systems of records maintained under the Black Lung Benefits Act and the Federal Employees' Compensation Act (DOL/

ESA 6 through DOL/ESA 13). This routine use will permit the Office of Workers' Compensation Programs to enter into agreements with other Federal, State, and local agencies to allow computerized or other matching and checking of records to assure that compensation payments being made are proper, ascertain continuing eligibility for benefits and to uncover any fraud, waste of abuse.

**DATE:** Persons wishing to comment may do so by March 10, 1983.

**EFFECTIVE DATE:** Unless otherwise noticed in the *Federal Register*, this notice shall become final March 10, 1983.

**ADDRESS:** Seth D. Zinman, Associate Solicitor, Office of Solicitor, Division of Legislation and Legal Counsel, U.S. Department of Labor, Room N-2428, 200 Constitution Avenue, NW., Washington, D.C. 20210.

**FOR FURTHER INFORMATION CONTACT:** Sofia P. Petters, Counsel for Administrative Legal Services, Office of the Solicitor, Department of Labor, 200 Constitution Avenue NW., Room N-2428, Washington, D.C. 20210; Telephone (202) 523-8188.

**AMENDMENT OF ROUTINE USES APPLICABLE TO DOL/ESA-6 THROUGH DOL/ESA-13:** Pursuant to the Privacy Act 1974, 5 U.S.C. 552a, the Department of Labor hereby publishes an amendment to the routine uses applicable to systems of records maintained by the Employment Standards Administration, DOL/ESA-6 through DOL/ESA-13, previously published at 47 FR 30377-83 (July 13, 1982).

### DOL/ESA-6

#### SYSTEM NAME:

Office of Workers' Compensation, Black Lung Benefit Claim File.

#### ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure to the employer at any time after report of the injury or report of the onset of the occupational illness, or the filing of a notice of injury or claim related to such injury or occupational illness, also to any party providing the employer with workers' compensation insurance coverage; State workers' compensation agencies and the Social Security Administration for the purpose of determining offsets as specified under the Act; doctors and medical services providers for the purpose of obtaining medical evaluations, physical rehabilitation or other services, and

labor unions and other voluntary employee associations of which the claimant is a member which exercise an interest in claims of members as part of their service to the members. Records are made available to other Federal agencies and State and local agencies conducting similar or related investigations, and to the Justice Department in that agency's determination regarding potential litigation and during the course of actual litigation. Records may be disclosed to contractors providing automated data processing services for the Department of Labor, and may also be disclosed in any proceeding where the authorizing legislation is in issue, or in which the Secretary of Labor, any past or present Federal employee, or any consultant, is directly or indirectly involved in investigations or other enforcement activities, is a party, or is otherwise involved in an official capacity under the Act.

A record from this system may also be disclosed as a "routine use" to a Federal, State or local agency maintaining pertinent records, if necessary to obtain information relevant to a Departmental decision concerning the determination of initial or continuing eligibility for program benefits.

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### DOL/ESA-7

#### SYSTEM NAME:

Office of Workers' Compensation Programs, Black Lung Benefit Payments File.

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#### ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure to mine operators who have been determined to be potentially liable for the claim and any party providing the mine operator with workers' compensation insurance coverage; State workers' compensation agencies and the Social Security Administration for the purpose of determining offsets as specified under the Act; and labor unions and other voluntary employee associations of which the claimant is a member which exercise and interest in claims of members as part of their service to the members.

A record from this system may also be disclosed as a "routine use" to a Federal, State or local agency maintaining pertinent records, if necessary to obtain information relevant to a Departmental decision concerning

the determination of initial or continuing eligibility for program benefits.

#### DOL/ESA-8

##### SYSTEM NAME:

Office of Workers' Compensation Programs, Black Lung Benefit Claimant Information File.

##### ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure to mine operators who have been determined to be potentially liable for the claim and any party providing the mine operator with workers' compensation insurance coverage; State workers' compensation agencies and the Social Security Administration for the purpose of determining offsets as specified under the Act; doctors and medical services providers for the purpose of obtaining medical evaluations, physical rehabilitation or other services, and labor unions and other voluntary employee associations of which the claimant is a member which exercise an interest in claims of members as part of their service to the members.

A record from this system may also be disclosed as a "routine use" to a Federal, State or local agency maintaining pertinent records, if necessary to obtain information relevant to a Departmental decision concerning the determination of initial or continuing eligibility for program benefits.

#### DOL/ESA-9

##### SYSTEM NAME:

Office of Workers' Compensation Programs, Black Lung Medical Treatment Records File.

##### ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure to the employer at any time after report of the injury or report of the onset of the occupational illness, or the filing of a notice of injury or claim related to such injury or occupational illness, also to any party providing the employer with workers' compensation insurance coverage; State workers' compensation agencies and the Social Security Administration for the purpose of determining offsets as specified under the Act; and labor unions and other voluntary employee associations of which the claimant is a member which exercise an interest in claims of members as part of their service to the

members. Records are made available to other Federal agencies and State and local agencies conducting similar or related investigations, and to the Justice Department in that agency's determination regarding potential litigation and during the course of actual litigation. Records may be disclosed to contractors providing automated data processing services for the Department of Labor, and may also be disclosed in any proceeding where the authorizing legislation is in issue, or in which the Secretary of Labor, any past or present Federal employee, or any consultant, is directly or indirectly involved in investigations or other enforcement activities, is a party, or is otherwise involved in an official capacity under the Act.

A record from this system may also be disclosed as a "routine use" to a Federal, State or local agency maintaining pertinent records, if necessary to obtain information relevant to a Departmental decision concerning the determination of initial or continuing eligibility for program benefits.

#### DOL/ESA-10

##### SYSTEM NAME:

Office of Workers' Compensation Programs, Black Lung Profile Beneficiaries File.

##### ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure to the employer at any time after report of the injury or report of the onset of the occupational illness, or the filing of a notice of injury or claim related to such injury or occupational illness, also to any party providing the employer with workers' compensation insurance coverage; State workers' compensation agencies and the Social Security Administration for the purpose of determining offsets as specified under the Act; and labor unions and other voluntary employee associations of which the claimant is a member which exercise an interest in claims of members as part of their service to the members. Records are made available to other Federal agencies and State and local agencies conducting similar or related investigations, and to the Justice Department in that agency's determination regarding potential litigation and during the course of actual litigation. Records may be disclosed to contractors providing automated data processing services for the Department of Labor, and may also be disclosed in any proceeding where the authorizing

legislation is in issue, or in which the Secretary of Labor, any past or present Federal employee, or any consultant, is directly or indirectly involved in investigations or other enforcement activities, is a party, or is otherwise involved in an official capacity under the Act.

A record from this system may also be disclosed as a "routine use" to a Federal, State, or local agency maintaining pertinent records, if necessary to obtain information relevant to a Departmental decision concerning the determination of initial or continuing eligibility for program benefits.

#### DOL/ESA-11

##### SYSTEM NAME:

Office of Workers' Compensation Programs, Black Lung Service Payments File.

##### ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Disclosure to mine operators who have been determined to be potentially liable for the claim and any party providing the mine operators with workers' compensation insurance coverage; State workers' compensation agencies and the Social Security Administration for the purpose of determining offsets as specified under the Act; doctors and medical services providers for the purpose of obtaining medical evaluations, physical rehabilitation or other services, and labor unions and other voluntary employee associations of which the claimant is a member which exercise an interest in claims of members as part of their service to the members.

A record from this system may also be disclosed as a "routine use" to a Federal, State, or local agency maintaining pertinent records, if necessary to obtain information relevant to a Departmental decision concerning the determination of initial or continuing eligibility for program benefits.

#### DOL/ESA-12

##### SYSTEM NAME:

Office of Workers' Compensation Programs, Black Lung X-ray Interpretation File.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Disclosure to mine operators who have been determined to be potentially liable for the claim and any party providing the mine operator with workers' compensation insurance coverage; State workers' compensation agencies and the Social Security Administration for the purpose of determining offsets as specified under the Act; doctors and medical services providers for the purpose of obtaining medical evaluations, physical rehabilitation or other services, and labor unions and other voluntary employee associations of which the claimant is a member which exercise an interest in claims of members as part of their service to the members.

A record from this system may also be disclosed as a "routine use" to a Federal, State or local agency maintaining pertinent records, if necessary to obtain information relevant to a Department decisions concerning the determination of initial or continuing eligibility for program benefits.

\* \* \* \* \*

**DOL/ESA-13**

**SYSTEM NAME:**

Office of Workers' Compensation Programs, Federal Employees' Compensation Act File.

\* \* \* \* \*

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:**

Disclosure to any third-party named in a claim or representative acting on his/her behalf until the claim is adjudicated and all appeals are resolved; Federal agencies which employed the claimant at the time of occurrence or recurrence of the injury or occupational illness; Federal, State or private rehabilitation agencies to whom the claimant has been referred for evaluation of the extent and nature of the disability and/or rehabilitation; physicians making an examination for the United States under 5 U.S.C. 8123(a); medical insurance plans or health and welfare plans which the claimant is covered by in instances when there is evidence of payment by OWCP for treatment of a medical condition which is not compensable; and labor unions and other voluntary employee associations of which the claimant is a member which exercise an interest in claims of members as part of their service to members. Records are made available to other Federal agencies and

State and local agencies conducting similar or related investigations, and to the Justice Department in that agency's determination regarding potential litigation and during the course of actual litigation. Records may be disclosed to contractors providing automated data processing services for the Department of Labor, and may also be disclosed in any proceeding where the authorizing legislation is in issue, or in which the Secretary of Labor, any past or present Federal employee, or any consultant, is directly or indirectly involved in investigations or other enforcement activities, is a party, or is otherwise involved in an official capacity under the Act.

A record from this system may also be disclosed as a "routine use" to a Federal, State or local agency maintaining pertinent records, if necessary to obtain information relevant to a Departmental decision concerning the determination of initial or continuing eligibility for program benefits.

\* \* \* \* \*

Signed at Washington, D.C., this 31st day of January 1983.

Raymond J. Donovan,  
Secretary of Labor.

[FR Doc. 83-3233 Filed 2-7-83; 8:45 am]

BILLING CODE 4510-27-M

**NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES**

**Centers, Audience Development, Literature Advisory Panel (Literature Residencies, Advancement); Meeting**

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Literature Advisory Panel (Literature Centers, Audience Development, Residencies, Advancement) to the National Council on the Arts will be held on February 24, 1983, from 9:00 a.m.-6:00 p.m. and on February 25-26, 1983, from 9:00 a.m.-5:00 p.m. in room 1422 of the Columbia Plaza Office Complex, 2401 E Street, NW., Washington, D.C. 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the *Federal Register* of February 13, 1980, these sessions will be

closed to the public pursuant to subsections (c) (4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634-6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

February 1, 1983.

[FR Doc. 83-3298 Filed 2-7-83; 8:45 am]

BILLING CODE 7537-01-M

**NATIONAL SCIENCE FOUNDATION**

**Advisory Committee for Chemistry; Meeting**

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting.

Name: Oversight Team of the Advisory Committee for Chemistry.

Date and Time: February 24-25, 1983 8:30 a.m.-5:00 p.m..

Place: Room 340, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Type of Meeting: Closed.

Contact Person: Dr. Edward F. Hayes, Director, Division of Chemistry, National Science Foundation, Washington, D.C. 20550 telephone (202)-357-7947.

Purpose of Committee: To provide advice and recommendations concerning NSF support for research in Chemistry.

Agenda: Review and comparison of declined proposals (and supporting documentation), with successful awards under the Synthetic Organic and Natural Products Chemistry Program, including review of peer review materials and other privileged materials.

Reason for Closing: The Oversight Review Team will be reviewing grant and declination jackets which contain the names of applicant institutions and principal investigators and privileged information contained in declination proposals. This session will also include a review of the peer review documentation pertaining to applicants. These matters are within exemptions (4) and (6) of 5 U.S.C. 552(b)(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such

determinations by the Director, NSF, July 6, 1979.

**M. Rebecca Winkler,**  
*Committee Management Coordinator.*  
February 3, 1983.  
[FR Doc. 83-3301 Filed 2-7-83; 8:45 am]  
**BILLING CODE 7555-01-M**

### **Advisory Panel for Behavioral and Neural Sciences; Meeting**

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Behavioral and Neural Sciences—Anthropology (Archaeology and Physical Anthropology)  
Date and Time: February 24-25, 1983, 8:30-5:00 p.m.

Place: National Science Foundation, 1800 G Street, NW., Room 1141, Washington, D.C. 20550.

Type Meeting: Closed.  
Contact Person: Dr. Charles L. Redman, Assistant Program Director for Anthropology, NSF Room 320, Washington, D.C. 20550.  
Summary of Minutes: Available from Contact Person, at above address.

Purpose of Panel: To provide advice and recommendations concerning NSF support for research in anthropology.

Agenda: To review and evaluate proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial (salary) data, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, July 6, 1979.

**M. Rebecca Winkler,**  
*Committee Management Coordinator.*  
February 3, 1983.  
[FR Doc. 83-3300 Filed 2-7-83; 8:45 am]  
**BILLING CODE 7555-01-M**

### **Advisory Panel for PCM Subpanel on Postdoctoral Research Fellowship in Plant Biology**

In accordance with the Federal Advisory Committee Act, as amended, Pub. L. 92-463, the National Science Foundation announces the following meeting:

Name: Subpanel on Postdoctoral Research Fellowships in Plant Biology of the Advisory Panel for Physiology, Cellular and Molecular Biology.

Date and Time: February 25, 1983, 9:00 a.m.

Place: Room 540, National Science Foundation, 1800 G Street, NW., Washington, D.C. 20550.

Type of Meeting: Closed.

Contact Person: Dr. Herman W. Lewis, Coordinator, Postdoctoral Fellowships in Plant Biology, Room 325, National Science Foundation, Washington, D.C. 20550, telephone (202) 357-7847.

Purpose of Subpanel: To provide advice and recommendations concerning support for postdoctoral fellowships in plant biology.

Agenda: To review and evaluate postdoctoral fellowship applications as part of the selection process for awards.

Reason for Closing: The applications being reviewed include information of a proprietary or confidential nature, including technical information, and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF on July 6, 1979.

February 3, 1983.  
**M. Rebecca Winkler,**  
*Committee Management Coordinator.*  
[FR Doc. 83-3303 Filed 2-7-83; 8:45 am]  
**BILLING CODE 7555-01-M**

### **Subpanel on Molecular Biology, Group A, of the Advisory Panel for Physiology, Cellular, and Molecular Biology; Meeting**

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subpanel on Molecular Biology, Group A, of the Advisory Panel for Physiology, Cellular, and Molecular Biology.

Date and Time: February 24 and 25, 1983, 9:00 a.m. to 5:00 p.m. each day.

Place: Room 338, National Science Foundation, 1800 G St., NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Kin-Ping Wong, Program Director, Biophysics Program, Room 329, National Science Foundation, Washington, DC 20550.

Purpose of Subpanel: To provide advice and recommendations concerning support for research in Molecular Biology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are with exemptions (4) and

(6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to Close Meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

**M. R. Winkler,**  
*Committee Management Coordinator.*  
February 3, 1983.  
[FR Doc. 83-3302 Filed 2-7-83; 8:45 am]  
**BILLING CODE 7555-01-M**

## **NUCLEAR REGULATORY COMMISSION**

### **Advisory Committee for Review of Office of Investigation Policy on Rights of Licensee Employees Under Investigation Notice of Establishment**

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), the Nuclear Regulatory Commission (NRC) announces the establishment of the Advisory Committee for Review of Office of Investigation Policy on Rights of Licensee Employees Under Investigation. The Commission, following consultation with the Committee Management Secretariat, General Services Administration, has determined that establishment of the Committee is necessary and in the public interest.

*Name of Committee:* Advisory Committee for Review of Office of Investigation Policy on Rights of Licensee Employees Under Investigation.

*Purpose:* To provide the Commission comments on the subject of rights of licensee employees under investigation by NRC. Included in this task are the following:

- Commenting on what employee rights ought to be, whether such employees should be informed by NRC of their rights, and, if they are to be informed, when and how they should be informed; and
- Identifying and commenting on the considerations that bear upon discretionary NRC actions, including the effectiveness of NRC investigations and fairness to the interviewee and the licensee.

*Membership:* The membership of this Committee shall be fairly balanced in terms of points of view represented and expertise in the legal issues relative to this assignment. Members will be drawn from university law faculties and from private practice based upon extensive experience in the area of rights of

individuals. The membership will also include the present Acting Director of the Commission's Office of Investigations.

**Effective Date and Duration:** This establishment is effective upon filing the charter with the standing committees of Congress having legislative jurisdiction for the NRC. The Committee will operate on an ad hoc basis for three to five months.

John C. Hoyle,

Advisory Committee Management Officer.

February 3, 1983.

[FR Doc. 83-3317 Filed 2-7-83; 8:45 am]

BILLING CODE 7590-01-M

**Availability of Report for Public Comment: National Governor's Association Study of the Agreement State Program**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notice of availability of report on the State Agreements Program.

**SUMMARY:** The National Governors' Association has completed a study entitled "An Examination of the Agreement State Program." The study was conducted under contract with the Nuclear Regulatory Commission. The Agreement State Program is carried out pursuant to the provisions of Section 274 of the Atomic Energy Act of 1954, as amended. The purpose of the study was to determine how well the program satisfies the purposes of the Act, how well it satisfies the needs of the States and the Federal Government, what the long term goals should be, and what structural, administrative and fiscal changes should be considered.

A copy of the report of the study is available for public inspection in the Commission's public document room, at 1717 H Street, NW., Washington, D.C. Single copies may be obtained by writing to Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

**DATES:** Comments must be received on or before March 25, 1983 in order to be considered.

**ADDRESS:** All interested persons desiring to submit comments for the consideration of the Commission staff, should send them to the U.S. Nuclear Regulatory Commission, Office of State Programs, Washington, D.C. 20555.

**FOR FURTHER INFORMATION CONTACT:**

Joel O. Lubenau, Office of State Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Phone: (301) 492-9887.

Dated at Bethesda, Maryland, this 31st day of January, 1983.

For The Nuclear Regulatory Commission.

G. Wayne Kerr,

Director, Office of State Programs.

[FR Doc. 83-3325 Filed 2-7-83; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-237 and 50-249]

**Commonwealth Edison Co. (Dresden Nuclear Power Station, Units Nos. 2 and 3); Exemption**

I

Commonwealth Edison Company (the licensee) is the holder of a Provisional Operating License No. DPR-19 and Facility Operating License No. DPR-25 which authorize operation of the Dresden Nuclear Power Station, Units 2 and 3, respectively (Dresden or the facilities). These licenses provide, among other things, that the facilities are subject to all rules, regulations and Orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facilities are boiling water reactors located at the licensee's site in Grundy County, Illinois.

II

Section III.G.3 of Appendix R to 10 CFR 50 requires, among other things, that a fire detection system and a fixed fire suppression system shall be installed in the area, room or zone for which alternative safe shutdown capability has been provided.

The licensee, in a July 1, 1982 submittal, requested exemptions for the following equipment.

1. All panels located in the control room.
2. 4KV SWGR's 23 and 24.
3. 4KV SWGR's 23-1 and 24-1.
4. 480V SFR's 28 and 29.
5. 480V MCC's 28-7 and 29-7.
6. 250V MCC's 2A and 2B.
7. 125V Distribution Panels 2A and 2B.
8. 4KV SWGR's 33 and 34.
9. 4KV SWGR's 33-1 and 34-1.
10. 480V SWGR's 38 and 39.
11. 480V MCC's 38-7 and 39-7.
12. 250V MCC's 3A and 3B.
13. 125V Distribution Panels 3A and 3B.

The licensee in the same submittal indicated the following as a basis for its exemption request:

—All equipment requiring fixed suppression as defined in Section III.G.3 for which an exemption was requested is critical to the power distribution necessary for normal and emergency

operation of safety related equipment for Units 2 and 3.

—The inadvertent actuation of any fixed water suppression system located over this power distribution equipment could result in the fault or failure of that equipment. Installation of any type of fixed suppression system other than water, such as cardox, halon or foam, would be ineffective or inappropriate for the areas in which the equipment listed above is located or for the type of fire likely to occur in the area. All such equipment is in high traffic areas which are currently provided with fire detection and manual suppression systems. Furthermore, the existing fire detection and suppression systems currently installed in the areas containing the equipment listed above have been reviewed and approved by the NRC in the Dresden Station, Units 2 and 3 Fire Protection SER. As the probability of inadvertent actuation of a fixed suppression system is of far greater magnitude than the probability of occurrence of a fire severe enough to require the use of the alternate shutdown method independent of the fire area, Commonwealth Edison feels that the installation of such fixed suppression systems would only result in a decrease in plant safety.

The NRC staff has evaluated the licensee's fire hazards analysis for these areas and has made the following determinations. All of the fire zones for which exemptions have been requested represent a similar configuration. i.e., combustible loading is light, there is alternate shutdown capability, smoke detection, and manual fire suppression equipment is available. There is, therefore, reasonable assurance that a fire in any of these areas would be promptly detected and extinguished. The low combustible loading in these areas ensures that safety related equipment in adjacent areas will not be threatened. The installation of a fixed fire suppression system will not significantly increase the level of fire protection in these areas.

Based on our evaluation, described in Enclosure 2 to the letter transmitting this exemption, we find that the existing fire protection in conjunction with alternate shutdown capability in the areas for which an exemption has been requested provides a level of fire protection equivalent to the technical requirements of Section III.G.3 of Appendix R, and therefore, the exemptions should be granted.

## III

Accordingly, the Commission has determined that, pursuant to 10 CFR 50.12, these exemptions are authorized by law and will not endanger life or property or the common defense and security, are otherwise in the public interest, and hereby grants exemptions for the areas described in Section II above from that portion of Section III.G.3 of Appendix R which requires that a fixed fire suppression system shall be installed in the area, room or zone for which alternate safe shutdown capability has been provided.

The Commission has determined that the granting of this Exemption will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with this action.

This Exemption is effective upon issuance.

Dated at Bethesda, Maryland this 2nd day of February, 1983.

For the Nuclear Regulatory Commission.

**Darrell G. Eisenhut,**

*Director, Division of Licensing.*

[FR Doc. 83-3319 Filed 2-7-83; 8:45 am]

**BILLING CODE 7590-01-M**

**[Docket No. 50-322-0L (Emergency Planning)]**

**Long Island Lighting Co. (Shoreham Nuclear Power Station, Unit 1); Confirmation of Conference of Counsel on Emergency Planning**

This is to confirm the on the record notice that a conference of counsel will be held Thursday, February 24, 1983 at 9:00 a.m. at the New York State Court of Claims, State Office Building, Third Floor "B" Building, Hearing Room 3B44, Veterans Memorial Highway, Hauppauge, New York 11787.

The purpose of the conference will be to discuss the litigation of Phase II (off-site) Emergency Planning matters. Counsel for all parties are directed to attend.

Specific topics to be reviewed will include:

A. The status of the radiological emergency response plan prepared by Suffolk County's Steering Committee and consultants, including whether, pursuant to the stipulation reached at Special Term, Albany County, New York State Supreme Court, this off-site plan or that proffered by the Long Island Lighting Company will be reviewed by the New York State Disaster Preparedness Commission.

B. Scheduling for the filing of Phase II Emergency Planning Contentions and responses thereto, the completion of related formal and informal discovery and the filing of written direct testimony.

C. The role which the Federal Emergency Management Agency (FEMA) will play in the review of any off-site plan submitted to the State of New York and in the litigation of any related contentions admitted in this proceeding, including the timing of FEMA's review and its submission of interim and/or final findings.

D. Coordination of the participation of FEMA and the NRC Staff in presenting the position of the U.S. Government in this proceeding, including the filing of written direct testimony and the conduct of cross-examination.

E. The role which Suffolk County will take in the litigation of off-site emergency planning issues, including its plans to either sponsor witnesses or conduct cross-examination.

F. Coordination of the participation of the North Shore Committee Against Thermal and Nuclear Pollution and the Shoreham Opponents Coalition in this proceeding, including attendance, the filing of contentions and written direct testimony, and the conduct of cross-examination.

It is so ordered.

For the Atomic Safety and Licensing Board.

Dated: Bethesda, Maryland, February 3, 1983.

**Lawrence Brenner,**

*Chairman, Administrative Judge.*

[FR Doc. 83-3320 Filed 2-7-83; 8:45 am]

**BILLING CODE 7590-01-M**

**[Docket No. 50-289, (Design Issues)]**

**Metropolitan Edison Co., et al. (Three Mile Island Nuclear Station, Unit No. 1); Rescheduling of Oral Argument**

February 1, 1983.

Notice is hereby given that the evidentiary hearing in this proceeding previously scheduled for Tuesday, March 1, 1983, has been rescheduled for 9:30 a.m. on Monday, March 7, 1983, in the NRC Public Hearing Room, Fifth Floor, East-West Towers Building, 4350 East-West Highway, Bethesda, Maryland.

Dated: February 1, 1983.

For the Appeal Board.

**C. Jean Shoemaker,**

*Secretary to the Appeal Board.*

[FR Doc. 83-3321 Filed 2-7-83; 8:45 am]

**BILLING CODE 7590-01-M**

**Regional Workshops Regarding Supplement No. 1 to NUREG-0737; Requirements for Emergency Response Capability**

**AGENCY:** Nuclear Regulatory Commission.

**ACTION:** Notices.

**SUMMARY:** This notice announces regional workshops to be held on Supplement 1 to NUREG-0737, Requirements for Emergency Response Capability. The workshops will be conducted by NRC senior staff members for the purpose of providing guidance to licensees for operating plants, holders of construction permits, and others that may be interested, regarding Commission policy on these issues and on the implementation process to be used by the NRC Project Managers.

**FOR FURTHER INFORMATION CONTACT:**

Walter A. Paulson, Office of Nuclear Reactor Regulation, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Telephone: (301) 492-7214.

**SUPPLEMENTARY INFORMATION:** By letter dated December 17, 1982 from the NRC staff to All Licensees of Operating Reactors, Applicants for Operating Reactors, and Holders of Construction Permits, NRC staff issued Supplement 1 to NUREG-0737, Requirements for Emergency Response Capability. The letter indicated that regional workshops would be held. Listed below are the specific locations for the workshops, which will all commence at 10 a.m.

Region	Workshop date	Workshop location
Region I.....	Feb. 2, 1983.....	Marriott-Twin Bridges, 333 Jefferson Davis Highway, Arlington, Virginia (US-1 and I-95).
Region II.....	Feb. 24, 1983.....	Ramada Renaissance, 4736 Best Road, College Park, Georgia (Take I-75/85 South of Airport to Riverdale Exit).
Region III.....	Mar. 4, 1983.....	Arlington Park Hilton, 3400 Euclid Avenue, Arlington Heights, Illinois (Take I-90 North to Route 53 North).
Region IV/V.....	Mar. 1, 1983.....	San Francisco Airport Hilton, San Francisco International Airport.

Dated at Bethesda, Maryland, this 1st day of February, 1983.

For the Nuclear Regulatory Commission.

**Dennis M. Crutchfield,**

*Chief, Operating Reactors Branch #5, Division of Licensing.*

[FR Doc. 83-3324 Filed 2-7-83; 8:45 am]

**BILLING CODE 7590-01-M**



**[NUREG-0800]****"Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants", Issuance and Availability Revised SRP Section 6.2.1.1.C**

The U.S. Nuclear Regulatory Commission (NRC) has published revisions to Section 6.2.1.1.C, "Pressure Suppression Type BWR Containments" of NUREG-0800, "Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants," LWR Edition (SRP).

SRP Section 6.2.1.1.C, Rev. 5; Appendix A, Rev. 2; and Appendix B, Rev. 0 incorporate the resolution of generic issues USI A-8, Mark II Containment Load Acceptance Criteria, which was previously published in NUREG-0800, "Mark II Containment Program Load Evaluation and Acceptance Criteria" dated August 1981 and USI A-39, Determination of Safety Relief Valve (SRV) Pool Dynamics Loads and Temperature Limits for BWR Containment, which was previously published in NUREG-0802, "Safety/Relief Valve Quencher Loads: Evaluation for BWR Mark II and III Containments," dated March 1982. All changes to 6.2.1.1.C resulting from the resolution of these generic topics and a few editorial changes are identified by a line in the margin of the Revised SRP Section.

The revised SRP section is effective immediately. A copy is expected to be available in the Public Document Room within 2 weeks.

Copies of the revised SRP Section or of the complete Standard Review Plan NUREG-0800, Accession No. PD-81-920199, are available for purchase from the National Technical Information Service, 5285 Port Royal Road, Springfield, Virginia 22161; telephone (703) 487-4650.

Dated at Bethesda, Maryland this 12th day of January 1983.

For the Nuclear Regulatory Commission.

**Harold R. Denton,**  
*Director, Office of Nuclear Reactor Regulation.*

[FR Doc. 83-3323 Filed 2-7-83; 8:45 am]

**BILLING CODE 7590-01-M**

**[Docket No. 50-387]****Pennsylvania Power & Light Co.; Allegheny Electric Cooperative, Inc.; Issuance of Amendment to Facility Operating License**

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 7 to Facility

Operating License No. NPF-14, issued to Pennsylvania Power & Light Company and Allegheny Electric Cooperative, Inc., for Susquehanna Steam Electric Station, Unit 1 (the facility) located in Luzerne County, Pennsylvania. This amendment grants changes to Technical Specifications to modify monitoring intervals and reactor coolant leakage measurements to be consistent with NUREG-0313, Rev. 1 and Standard Technical Specifications and adds a license condition regarding implementation of certain aspects of Pub. L. 97-425, January 7, 1983 (Nuclear Waste Policy Act of 1982). This amendment is effective as of the date of issuance.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's regulations. The Commission has made appropriate findings as required by the Act and the Commission's regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR 51.5(d)(4) and environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see: (1) The application for the amendment dated December 10, 1982; (2) Amendment No. 7 to License NPF-14 dated January 31, 1983; and (3) the Commission's evaluation dated January 31, 1983. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, and at the Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701. A copy of items (1), (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Licensing.

Dated at Bethesda, Maryland, this 31st day of January 1983.

For the Nuclear Regulatory Commission.

**A. Schwencer,**  
*Chief, Licensing Branch No. 2, Division of Licensing.*

[FR Doc. 83-3322 Filed 2-7-83; 8:45 am]

**BILLING CODE 7590-01-M**

**[Docket No. STN 50-483-OL]****Union Electric Co.; (Callaway Plant, Unit 1); Assignment of Atomic Safety and Licensing Appeal Board**

Notice is hereby given that, in accordance with the authority conferred by 10 CFR 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this operating license proceeding.

**Alan S. Rosenthal, Chairman**  
**Gary J. Edles**  
**Dr. Reginald L. Gotchy.**

Dated: January 31, 1983.

**C. Jean Shoemaker,**  
*Secretary to the Appeal Board.*

[FR Doc. 83-3318 Filed 2-7-83; 8:45 am]

**BILLING CODE 7590-01-M**

**OFFICE OF SCIENCE AND TECHNOLOGY POLICY****White House Science Council Panel on Future Military Technologies; Meeting**

Notice is hereby given that the panel named above will meet at 0830 a.m. on February 17, 1983, in the Naval Ocean System Center, 251 Catalina Boulevard, San Diego, California.

The panel will discuss research and development of future military programs.

The meeting will be closed to the public pursuant to 5 U.S.C. 552b(c)(1): All material under discussion is classified defense information. Authority for closing: Director, Office of Science and Technology Policy.

Contact: Dr. Alf L. Andreassen, Office of Science and Technology Policy, 726 Jackson Place, N.W., Washington, D.C. 20500, Phone: (202) 395-5884.

**Jerry D. Jennings,**  
*Executive Director, Office of Science and Technology Policy.*

February 3, 1983.

[FR Doc. 83-3474 Filed 2-7-83; 8:45 am]

**BILLING CODE 3170-01-M**

**SECURITIES AND EXCHANGE COMMISSION**

**[Release No. 13007; 812-5407]**

**Forest Creek Associates Limited Partnership and Winthrop Financial Co., Inc.; Filing of Application**

February 2, 1983.

In the matter of Forest Creek Associates Limited Partnership and Winthrop Financial Co., Inc., 225 Franklin Street, Boston, Massachusetts

02110 (812-5407). Notice is hereby given that Forest Creek Associates Limited Partnership (the "Partnership") and its managing general partner, Winthrop Financial Co., Inc. ("Winthrop Financial") (collectively, the "Applicants"), filed an application on December 20, 1982, pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") for an order exempting the Partnership from all provisions of the Act and rules thereunder. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicants state that the Partnership was formed under the Maryland Revised Uniform Limited Partnership Act as a vehicle for equity investment in government-assisted, rental housing in accordance with the policies and objectives of Title IX of the Housing and Urban Development Act of 1968. Applicants state that the Partnership will operate as a "two-tier" entity; that is, the Partnership, as a limited partner, will invest in New Keystone Associates Limited Partnership (the "Operating Partnership"), which in turn will engage in the acquisition, development, construction, improvement, maintenance, and operation of government-assisted, low-income housing (the "Project"). Applicants contend that they organized the Partnership as a limited partnership because only that form of organization insulates an investor from personal liability, limits financial risk incurred to the amount invested in the program, and allows the investor to claim on his individual tax return his proportionate share of the tax benefits from the investment as if he were a direct owner of the Project. Applicants maintain that the Partnership's investment objectives are to invest in the Operating Partnership, provide tax benefits on a current basis, obtain reasonable protection for its investment in the Operating Partnership, provide potential for appreciation, and provide potential for future cash distributions from operations (on a limited basis), refinancing, or sale of the Project.

Applicants represent that the Partnership will offer 99 units of limited partnership interests at a price of \$99,500 per unit to investors meeting certain suitability standards pursuant to Section 4(2) of the Securities Act of 1933 and Regulation D promulgated thereunder. Applicants estimate that the Partnership will have as net proceeds of the offering an aggregate of \$9,062,450 available for investment after

deductions from sales commissions, anticipated offering expenses, and certain fees and expenses. Applicants further represent that the Partnership will own a 78.3% interest as a limited partner in the Operating Partnership. Applicants assert that the Operating Partnership will rehabilitate a 20-year old apartment complex of multi-family residential units in Prince George's County, Maryland. Applicants further assert that the investment by the Partnership in the Operating Partnership (other than interim investments in short-term obligations pending payment by the Partnership of its capital contributions to the Operating Partnership) will be the Partnership's only investment.

Applicants assert that, although the Partnership has no control over the Project's management, the Partnership's ownership of an interest in the Operating Partnership will be the economic equivalent of direct ownership of the Project itself and that such interests will have no value independent of the value of the Project. Applicants contend that the Operating Partnership will not generate substantial income or expense other than as directly related to the acquisition, development, rehabilitation, construction, improvement, maintenance, and operation of the Project.

Applicants represent that the Partnership will be controlled by Winthrop Financial, the managing general partner, pursuant to the partnership agreement, and that Winthrop Financial, a Massachusetts corporation, is a wholly-owned subsidiary of First Winthrop Corporation, a Delaware corporation. Applicants assert that the general partner will control the Partnership, and the limited partners, consistent with their limited liability status, cannot participate in the control of the Partnership's business. A majority in interest of the limited partnership, however, may amend the partnership agreement, dissolve the partnership and remove any general partners and elect a replacement therefor, provided that such rights do not adversely affect the tax or limited liability status of the limited partners. The partnership agreement enables each limited partner to review all books and records of the partnership at any and all reasonable times and provides that copies of the list of the names and addresses of the limited partners, including the number of units owned by each of them, will be available to the limited partners.

Applicants state that the general partner of the Operating Partnership is

Artery Keystone Associates Limited Partnership ("Artery"), a Maryland limited partnership. Applicants assert that the Artery Organization, Inc., a corporation owned by Artery which will serve as the Project's builder, has substantial experience in the construction and development of real estate projects, including several government-assisted projects. Applicants further assert that Artery will guarantee the Project's completion, will cover certain operating deficits of the Operating Partnership through the period in which the limited partners make their capital contributions (the "Operating Guarantee Period") and, prior to the expiration of the Operating Guarantee Period, will repurchase the interests of the limited partners subject to certain conditions. In consideration of the foregoing, Applicants state that Artery will receive substantial compensation, and Artery and an affiliate will receive interests in the Operating Partnership disproportionate to their capital contributions.

Without conceding that the Partnership is an investment company as defined in the Act, Applicants request that the Partnership be exempted from all provisions of the Act pursuant to Section 6(c). Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction from any provision of the Act and rule thereunder, if, and to the extent that, such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act. Applicants contend that the exemption of the Partnership from all provisions of the Act is both necessary and appropriate in the public interest. Applicants maintain that the final paragraph of Release No. 8456 contemplates that the exemptive power of the Commission under Section 6(c) may be applied to two-tier partnerships such as the Partnership, a "two-tier partnership that invests in limited partnership engaged in the development and building of housing for low and moderate income persons. . ."

Applicants state that Release No. 8456 lists two conditions, designed for the protection of investors, that must be satisfied in order to qualify for such an exemption: (1) "Interests in the issuer should be sold only to persons for whom investments in limited profit, essentially taxshelter, investments would not be unsuitable. . ."; and (2) "requirements for fair dealing by the General Partners of the issuer should be included in the basic organizational documents of the

company." Applicants assert that the Partnership will comply with these conditions and will otherwise operate in a manner designed to insure investor protection.

Applicants assert that the Partnership is not an "investment company" under the Act. They further assert that they will be in the business of investing in and being the beneficial owners of an apartment complex which is not a security, and that the limited partnership interests should not constitute "investment securities" within the meaning of Section 3(a)(3) of the Act. Applicants contend that the limited partnership interests are not readily marketable, and will have no value apart from the value of the Project owned by the Operating Partnership. Applicants further contend that no separate market exists for the limited partnership interests, and their sale could involve severe adverse tax consequences. Although a portion of the limited partners' capital contributions will probably be invested for approximately one month in short-term obligations until such contributions are paid to the Operating Partnership, Applicants represent that at no time will the value of the Partnership's temporary investment exceed 40% of the Partnership's total assets.

Insofar as investor suitability is concerned, Applicants state that Partnership interests will be offered only to "Accredited Investors" as prescribed by Regulation D and to not more than 35 other "qualified investors" who meet certain suitability requirements. Applicants define a "qualified investor" as one with a net worth of at least \$250,000 who represents that some portion of his income will be subject to a marginal federal income tax rate of 48% for 1983 and 45% for 1984 and thereafter. Applicants believe their suitability standards to be consistent with those set forth in Release No. 8456 and consistent with the guidelines of those states which prescribe suitability standards.

Insofar as fair dealing by the general partner is concerned, Applicants contend that the partnership agreement and the confidential memorandum relating to the offering of the partnership interests contain numerous provisions designed to insure fair dealing by the general partner with the limited partners. Applicants assert that all compensation to be paid to the general partner and its affiliates is fair and on terms no less favorable to the Partnership than would be the case if such arrangements had been made with

independent third parties. Further, Applicants state their belief that such compensation meets all applicable guidelines necessary to permit the partnership interests to be offered and sold in the various states that prescribe such guidelines, including the statement of policy adopted by the North American Securities Administrators Association, Inc. in respect of real estate programs. In order to insure that limited partners receive extensive information about the Partnership, Applicants state that limited partners will receive annual reports concerning the Partnership's business and operations, including audited financial statements.

Notice is hereby given that any interested person wishing to request a hearing on the application may, not later than February 28, 1983, at 5:30 p.m., do so by submitting a written request setting forth the nature of his/her interest, the reasons for his/her request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,  
Secretary.

[FR Doc. 83-3340 Filed 2-7-83; 8:45 am]  
BILLING CODE 8010-01-M

[Release No. 13006; 812-5409]

#### Northwestern Mutual Life Insurance Co., et al.; Filing of Application

February 2, 1983.

In the matter of The Northwestern Mutual Life Insurance Company, NML Equity Services, Inc., NML Variable Annuity Account 1 and NML Variable Annuity Account B, 720 East Wisconsin Avenue, Milwaukee, Wisconsin 53202 (812-5409).

Notice is hereby given that The Northwestern Mutual Life Insurance Company ("NML"), NML Equity Services, Inc. ("Equity"), NML Variable Annuity Account 1 ("Account 1") and NML Variable Annuity Account B ("Account B") (together, "Applicants")

filed an application on December 21, 1982, and an amendment thereto on January 25, 1983, for an order of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") granting exemptions from the above referenced provisions of the Act and Rules thereunder, to the extent necessary to permit the transactions described in the application and for an order pursuant to Section 11 of the Act approving the terms of certain offers of exchange. All interested persons are referred to the application on file with the Commission, as amended, for a statement of the representations contained therein, which are summarized below, and are referred to the Act and Rules thereunder for a statement of the relevant provisions.

NML is a mutual life insurance company organized under the laws of Wisconsin. Equity is a wholly-owned subsidiary of NML registered as a broker-dealer which serves as the underwriter of the variable annuity contracts ("Contracts"), which are issued in connection with Account 1 and Account B, separate investment accounts of NML registered under the Act as unit investment trusts. NML and Equity are the co-depositors of the accounts.

NML established the accounts to fund the Contracts. Purchase payments, less any applicable premium taxes, are credited to the accounts to purchase accumulation units, which are converted to annuity units upon annuitization. Account 1 will invest in a designated mutual fund. A contractowner participating in Account B may allocate payments to one or more of four existing divisions of that account, each of which invests in a different designated mutual fund.

Subject to certain conditions, an Account B contractowner may transfer all or part of his accumulation or annuity units from one division of that account to another. The number of units to be credited will be adjusted to reflect the value of respective units of the divisions involved, and a fee of \$5 will be imposed on each transfer. NML also will deduct a fixed contract fee of the lesser of \$30 or 1% of the value of aggregate accumulation units upon completion of the first contract year and one each anniversary date thereafter until annuitization. Applicants assert that the transfer and contract fees are intended only to cover actual expenses and are not calculated to include a profit element.

In addition, NML will deduct an annuity rate risk charge which on an annual basis will equal .5% of the assets

of each account, and an expense risk charge which on an annual basis will equal .5% and .75%, respectively, of the assets of Account 1 and Account B. Applicants assert that such charges are reasonable in amount as determined by industry practice of life insurance companies which offer competing variable annuity contracts, and the basis for this assertion is reflected by documents on file with NML.

Any purchase payments which have been deposited under the Contracts for eight years or more may be withdrawn without charge. A contingent deferred sales charge, which will vary depending upon the aggregate amount of purchase payments and the number of years that the sums had been on deposit, will be imposed on amounts withdrawn before annuity payments begin or within five years after annuitization. The charge will also be imposed upon selection of a fixed annuity plan, unless the plan involves a life contingency and becomes effective on or after the tenth contract anniversary. For purposes of determining the charge, payments are aggregated and placed in "categories" eight through zero. The charge for payments withdrawn while considered to be in category eight is 8%, and decreases 1% for each lower category. The first \$25,000 of total payments made under the Contract start out in category eight, the next \$75,000 start out in category four, and all additional purchase payments start out in category two. As of each contract anniversary, any amount in a category moves to the next lower category until reaching category zero. The amounts upon which the charge is figured will be taken from those categories that produce the lowest charge, and there will be no charge amounts withdrawn which exceed total purchase payments.

#### Relief Requested

Applicants request the following exemptions: from Sections 2(a)(32), 2(a)(35), 22(c), 26(a)(2)(C), 27(c)(1), 27(c)(2), and 27(d) of the Act and Rule 22c-1 thereunder to the extent deemed necessary or appropriate to impose the contingent deferred sales charge; and from Sections 26(a)(2)(C) and 27(c)(2) to the extent deemed necessary or appropriate to impose the contract fee, asset risk charge, and the transfer fee, and to deduct premium taxes.

Section 6(c) of the Act authorizes the Commission to exempt any person, security, or transaction from the provisions of the Act and rules promulgated thereunder if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of

investors and the purposes fairly intended by the policy and provisions of the Act.

Applicants also request an order pursuant to Section 11 of the Act, to the extent necessary, approving the terms of the offer of exchange described above. Section 11(a) generally makes it unlawful for any registered open-end investment company to make an offer to holders of its securities to exchange their securities on any basis other than relative net asset value unless the terms of the offer have first been submitted to and approved by the Commission. Section 11(c) provides that, irrespective of the basis of exchange, the provisions of Section 11(a) apply to any type of exchange offer involving the securities of a registered unit investment trust.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than February 25, 1983, at 5:30 p.m. do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of the request should be served personally or by mail upon Applicants at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. Persons who request a hearing will receive any notices and orders issued in this matter. After said date an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,  
Secretary.

[FR Doc. 83-3339 Filed 2-7-83; 8:45 am]  
BILLING CODE 8010-01-M

[Release No. 19480]

#### Options Clearing Corporation ("OCC"); Order Approving Proposed Rule Change

February 2, 1983.

On July 6, 1982, OCC filed with the Commission, pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78b(1), (the "Act") and Rule 19b-4 thereunder, a proposed rule change that would amend OCC Rule 308 to require OCC participants to file with OCC specified types of financial information. Notice of the proposed rule change, together with the

terms of substance of the proposed rule change, was given by publication of Securities Exchange Act Release No. 18920 (July 26, 1982), 47 FR 33822 (August 4, 1982). OCC amended the proposal to modify its requirements for certain smaller participants.<sup>1</sup> One letter of comment was received by the Commission.<sup>2</sup>

Currently, OCC Rule 308 provides that "the financial books and records of every [participant] shall be audited at least once annually by a firm of independent public accountants satisfactory to [OCC], and a report thereof shall be filed with [OCC] in such form as [OCC] may prescribe." The proposal would replace this language with provisions requiring that (1) any participant obligated to prepare a financial report in accordance with Rule 17a-5 (17 CFR 240.17a-5) must file a copy of that report with OCC; and (2) any participant who is exempted by Rule 17a-5(d) from filing such a report ("exempt participants") must submit audited financial statements to OCC that are prepared by an independent public accountant satisfactory to OCC in accordance with generally accepted accounting principles ("GAAP") and auditing standards ("GAAS"). The proposal further provides that all participants must file with OCC a copy of any accountant's supplemental report on material inadequacies required by Rule 17a-5(j). Finally, the proposal specifies when such reports and statements must be filed with OCC.

OCC submitted the proposal to specify minimum guidelines for financial reports that must be prepared by participants and to establish definite times for the submission of such reports. OCC believes that, by conforming OCC's financial reporting requirements for most OCC participants to Rule 17a-5 and by requiring exempt participants to file financial reports prepared in accordance with generally accepted standards, the proposal would ensure greater uniformity in the formats, contents, and timing of receipt of the reports to OCC and would increase their regulatory value.

<sup>1</sup> Letter amendment to the staff dated December 27, 1982, from Marc L. Berman, Executive Vice President and General Counsel of OCC.

<sup>2</sup> Charles H. Ross, of Charles H. Ross, Inc., stated in a September 28, 1982 letter that OCC's original proposal would have included identical financial reporting requirements for both small and large participants, and that those requirements would have imposed an onerous and unnecessary reporting burden on small participants. Following OCC's amendment to the proposal reducing the financial reporting burdens for certain small participants, Mr. Ross indicated informally to the Commission staff that the amendment resolved his concerns.

The Commission believes that the proposal would assist OCC substantially in monitoring the financial condition of its participants without imposing significant additional reporting burdens on participants. In general, OCC's participants already have their independent public accountants prepare either audited financial reports in accordance with Rule 17a-5 or audited financial statements in accordance with GAAP and GAAS, together with a report on material inadequacies when appropriate. The Commission acknowledges that the proposal may impose additional expenses on OCC participants that file financial statements not conforming with GAAP or GAAS; the Commission believes, however, that those expenses are likely to be insubstantial. Moreover, because of the significant benefits accruing to all participants from OCC's enhanced ability to monitor its participants and the proposal's less stringent financial reporting requirements for certain smaller OCC participants, the Commission believes that the proposal does not impose any inappropriate, inequitable, or undue burdens on competition among OCC participants. Thus, the Commission believes that the proposal is consistent with, and in furtherance of, OCC's obligations to safeguard securities and funds in the custody or control of OCC or for which OCC is responsible, pursuant to Section 17A(b)(3)(F) of the Act.

Accordingly, it is therefore ordered, pursuant to Section 19(b) of the Act, that the proposed rule change (SR-OCC-82-16) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,  
Secretary.

[FR Doc. 83-3341 Filed 2-7-83; 8:45 am]

BILLING CODE 8010-01-M

Washington, D.C. 20220, telephone 202-376-0434.

**SUPPLEMENTARY INFORMATION:** Pursuant to 5 U.S.C. 4314(c)(4) and the Civil Service Reform Act of 1978, the members of the Senior Executive Service Performance Review Board for the Bureaus of Engraving and Printing, Mint, Government Financial Operations, and Public Debt, are listed below. This Board reviews the performance of Senior Executives below the level of bureau head and principal deputy in the four bureaus, except for the Assistant Commissioner Comptroller at the Bureau of Government Financial Operations. At least three voting members constitute a quorum.

	Primary	Alternate
E&P	Robert J. Leuver, Assistant Director.	Milton J. Seidel, Assistant Director (Research and Engineering).
Mint	Larry E. Rolufs, Deputy Director.	Eugene H. Essner, Associate Director (Policy and Management).
GFO	Irvin E. Faunce, Deputy Commissioner.	Russell D. Morris, Assistant Commissioner (Banking & Cash Management).
	Bland T. Brockenborough, Assistant Commissioner (Administration).	John Turner, Assistant Commissioner (Disbursement and Claims).
PD	Richard L. Gregg, Acting Deputy Commissioner.	Kenneth W. Rath, Assistant Commissioner (Washington).

This notice does not meet the Department's criteria for significant regulations.

Dated: January 26, 1983.

Larry E. Rolufs,  
Deputy Director, Mint PRB Chairman, 1983.

[FR Doc. 83-3238 Filed 2-7-83; 8:45 am]

BILLING CODE 4810-25-M

Interest on the notes will be payable at the rate of 9% percent per annum.

John A. Kilcoyne,  
Acting Fiscal Assistant Secretary.

[FR Doc. 83-3367 Filed 2-7-83; 8:45 am]

BILLING CODE 4810-40-M

## OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

### Section 201 Case; Heavyweight Motorcycles, and Engine and Power Train Subassemblies Thereof; Solicitation of Public Views

Pursuant to section 201 of the Trade Act of 1974, the President received, on February 1, 1983, a report from the United States International Trade Commission (USITC) on the case of motorcycles having engines with total piston displacement over 700 cubic centimeters provided for in item 692.50 of the Tariff Schedules of the United States (TSUS). In that case the USITC determined that such motorcycles are being imported into the United States in such increased quantities as to be a substantial cause of the threat of serious injury to the domestic industry producing articles like or directly competitive with the imported articles. The USITC also determined (Commissioner Haggart dissenting) that engines and power train subassemblies for such motorcycles (whether imported separately or in combination), and parts of such engines and subassemblies, all the foregoing provided for in TSUS items 660.56, 660.57, and 692.55, are not being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing articles like or directly competitive with the imported articles.

The Commission found and recommended that to prevent the serious injury to the domestic industry, it would be necessary to impose rates of duty, in addition to the existing rate, with respect to motorcycles having engines with total piston displacement over 700 cubic centimeters, provided for in TSUS item 692.50, for a 5-year period, as follows:

1st Year.....	45% ad val.
2nd Year.....	35% ad val.
3rd Year.....	20% ad val.
4th Year.....	15% ad val.
5th Year.....	10% ad val.

The term "motorcycles having engines with total piston displacement over 700 cubic centimeters" is intended to include such motorcycles, whether assembled or not assembled, and

## DEPARTMENT OF THE TREASURY

### Performance Review Board

**ACTION:** Notice of Members of Performance Review Board (PRB)

**SUMMARY:** This notice announces the appointment of members of the composite PRB for the Bureaus of Engraving and Printing, Mint, Government Financial Operations, and Public Debt.

#### FOR FURTHER INFORMATION CONTACT:

Larry E. Rolufs, Deputy Director, Bureau of the Mint, Room 1108, Warner Building, 501-13th Street, NW.,

## Office of the Secretary

[Supp. to Dept. Circ. Public Debt Series—  
No. 2-83]

### Series L-1986; Interest Rate

February 2, 1983.

The Secretary announced on February 1, 1983, that the interest rate on the notes designated Series L-1986, described in Department Circular—Public Debt Series—No. 2-83 dated January 27, 1983, will be 9% percent.

whether finished or not finished, and thus would include, as unfinished motorcycles, wholly or partly assembled motorcycle frames with engines mounted thereon.

Within 60 days of receiving a report from the Commission containing an affirmative determination (by April 2, 1983 in this case), the President must determine what method and amount of import relief he will provide or determine that the provision of relief is not in the national economic interest and whether he will direct expeditious consideration of adjustment assistance petitions.

In determining whether to provide import relief and what method and amount of import relief he will provide, the President must take into account, in addition to other considerations he may deem relevant, the following factors:

(1) The probable effectiveness of the import relief as a means to promote adjustment, the efforts being made or to be implemented by the industry concerned to adjust to import competition, and other considerations relevant to the position of the industry in the nation's economy;

(2) The effect of import relief on consumers and on competition in the domestic markets for such articles;

(3) The effect of import relief on the international economic interest of the United States;

(4) The impact on United States industries and firms as a consequence of any possible modification of duties or other import restrictions which may

result from international obligations with respect to compensation;

(5) The geographic concentration of imported products marketed in the United States;

(6) The extent to which the United States' market is a focal point for exports of such articles by reason of restraints on exports of such articles by reason of restraints on exports of such articles to, or on imports of such articles into, third country markets; and

(7) The economic and social costs which would be incurred by taxpayers, communities and workers if import relief were or were not provided.

The Office of the United States Trade Representative (USTR) chairs the interagency Trade Policy Committee structure that makes recommendations to the President as to what action, if any, he should take on reports submitted by the USITC under section 201(d). In order to assist in the development of recommendations to the President as to what action to take under sections 202 and 203 of the Trade Act of 1974, the USTR welcomes briefs from interested parties on the above listed subjects.

Briefs should be submitted in twenty (20) copies, in conformity with 15 CFR 2003, to the Secretary, Trade Policy Staff Committee, Room 500, Office of the U.S. Trade Representative, 600 17th Street, N.W., Washington, D.C. 20508.

For further information contact: J. David Morrissey, telephone 202-395-4510. (Additional information on this case is available in USTIC report TA-201-47).

To be considered by the Office of the USTR, submissions should be received

as soon as possible, but in no event later than the close of business Friday, February 25, 1983.

**Frederick L. Montgomery,**  
*Chairman, Trade Policy Staff Committee.*

[FR Doc. 83-3476 Filed 2-7-83; 8:45 am]

BILLING CODE 3190-01-M

## VETERANS ADMINISTRATION

### Station Committee on Educational Allowances; Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on February 24, 1983, at 10:00 a.m., the Veterans Administration Regional Office, St. Petersburg, Florida, Station Committee on Educational Allowances, shall, at the Federal Building, Room 602B, 144 1st Avenue South, St. Petersburg, Florida, conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled at Florida A & M University, Tallahassee, Florida, 32307, should be discontinued, as provided in 38 CFR 21.4134, because a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the Committee at that time and place.

Dated: January 25, 1983.

**Carlos L. Rainwater,**  
*Director.*

[FR Doc. 83-3336 Filed 2-7-83; 8:45 am]

BILLING CODE 8320-01-M

# Sunshine Act Meetings

Federal Register

Vol. 48, No. 27

Tuesday, February 8, 1983

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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	Items
Civil Aeronautics Board.....	1, 2
Consumer Product Safety Commission.....	3-5
Federal Communications Commission.....	6, 7

### 1

#### CIVIL AERONAUTICS BOARD

The CAB will meet:

Time and date: 10:00 a.m. (Open), 3:00 p.m. (Closed), February 8, 1983

Place: Room 1027 (Open), Room 1012 (Closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428

#### Subject

16a. Docket 37554, Establishment of the Standard Foreign Fare Level. (Memo 048-P, BIA)

22a. Report on the Dominican Republic. (BIA)

Status: 16a Open, 22a Closed

Person to contact: Phyllis T. Kaylor, The Secretary, (202) 673-5068

[S-184-83 Filed 2-4-83; 3:53 pm]

BILLING CODE 6320-01-M

### 2

#### CIVIL AERONAUTICS BOARD

The CAB will meet:

Time and date: 10:00 a.m. (Open), 3:00 p.m. (Closed), February 8, 1983

Place: Room 1027 (Open), Room 1012 (Closed), 1825 Connecticut Avenue, NW., Washington, D.C. 20428

#### Subject

1. Ratification of Items Adopted by Notation.

2. Consent settlement of public charter regulation violations by Richard J. Davis, Jr. (OGC)

3. Time for filing answers to summary judgment and dismissal motions in enforcement proceedings. (OGC)

4. Dockets 40772, 40336, 38621, ATA's Petition to Repeal Part 254 (Domestic Baggage Liability) prior to its effective date. (OGC, BDA, OCCCCA)

5. Docket 39932, Application of Southwest Airlines for an exemption from the standard notice required by 14 CFR 250.9. (OGC, BDA)

6. Docket 40959, Amendment to Part 321 to require dormant authority applicants to file fitness information with their applications. (OGC, BDA)

7. Docket 40734, Final rule to require all U.S. and foreign air carriers to adhere to the

Montreal Agreement increasing passenger liability limits under the Warsaw Convention to \$75,000. (Memo 1309-A, 1309-B, OGC, BDA, BIA)

8. Dockets 40771, 40613, 40614, *American World Airways Fitness Investigation, Applications of American World Airways, Inc.* (OGC)

9. Docket 17401, Application of Chicago Helicopter Airways, Inc. for renewal of a temporary certificate of public convenience and necessity. (Memo 1677, BDA)

10. Commuter carrier fitness determination of Catalina/Seaboard Airlines Inc., d/b/a Spirit Aire. (BDA)

11. Commuter carrier fitness determination of East Coast Airways, Ltd. (BDA)

12. Commuter carrier fitness determination of Eastman Airways, Inc. (BDA)

13. Commuter carrier fitness determination of Virgin Air, Inc. (Memo 1679, BDA)

14. Dockets 38503 and 38504, Mississippi Valley Airlines, Inc., application for compensation for losses at Clinton and Ottumwa, Iowa. (Memo 473-3, BDA, OCCCCA, BCAA, OC)

15. Docket 40774, Western Air Lines, Inc., Application for compensation for losses at Pierre, South Dakota. (Memop 1621-A, BDA, BCAA, OCCCCA, OC, OGC)

16. Dockets 38019 and 38961, *Wein Air Alaska Mainline and Bush Mail Rates Investigation*; In the matter of *Intra-Alaska Class Service Mail Rates*. (Memo 1284-B, BIA, BDA, OGC)

17. Docket 35723, In the Matter of the Petition of Kodiak-Western Alaska Airlines, Inc. to Increase Service Mail Pay. (BIA)

18. Docket 40960, Intercarrier agreement on Florida-U.K. fares covering the period April, 1983-March, 1984. (Memo 1511-D, BIA)

19. Docket 36700, Application of Aeral-Aeronoleggi e Lavoro Aereo, S.p.A. d/b/a Aeral for a foreign air carrier permit pursuant to section 402 of the Federal Aviation Act of 1958, as amended. (BIA, OGC, BALJ)

20. Docket 41058, Application of Capitol Air, Inc., for an amendment to its certificate of public convenience and necessity pursuant to section 401 of the Federal Aviation Act of 1958, as amended, to provide scheduled combination air transportation between the United States and Tel Aviv, Israel. (BIA, OGC, BALJ)

21. Report on the Issues Group Meeting of February 2, 1983. (BIA)

22. Report on the Netherland Antilles. (BIA)

23. Discussion of German Negotiations. (BIA)

24. Report on Fiji Negotiations. (BIA)

Status: 1-20 (Open), 21-24 (Closed)

Person to contact: Phyllis T. Kaylor, The Secretary, (202) 673-5068

[S-185-83 Filed 2-4-83; 3:53 pm]

BILLING CODE 6320-01-M

### 3

#### CONSUMER PRODUCT SAFETY COMMISSION

Time and date: Commission Meeting, Wednesday, February 9, 1983, 11:00 a.m.

Location: Third Floor, Hearing Room, 1111 18th Street, N.W., Washington, DC

Status: *Open to the Public*

1. *Space Heaters: Exemption Applications (1-23)*. The Commission will consider petitions SH 82-1 through SH 82-23, from state/local jurisdictions, which request exemption from the preemption effect of the safety standard for unvented gas-fired space heaters.

2. *Toy Chests: Proposed Standard*. The Commission will consider a proposed rule which addresses the risk of strangulation to children from falling toy chest lids.

Contact person for additional information: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, MD 20207, 301-492-6800

[S-179-83 Filed 2-4-83; 11:38 am]

BILLING CODE 6355-01-M

### 4

#### CONSUMER PRODUCT SAFETY COMMISSION

Time and date: Commission Meeting, Wednesday, February 9, 1983, 10:00 a.m.

Location: Third Floor, Hearing Room, 1111 18th Street, N.W., Washington, DC

Status: *Open to the Public*

*Phthalates in Consumer Products*. The Commission will meet with representatives of the Chemical Manufacturers Association (CMA) to hear CMA's views on phthalates in consumer products.

Contact person for additional information: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, MD 20207, 301-492-6800

[S-180-83 Filed 2-4-83; 11:38 am]

BILLING CODE 6355-01-M

### 5

#### U.S. CONSUMER PRODUCT SAFETY COMMISSION

Time and date: Commission Meeting, Thursday, February 10, 1983, 10:00 a.m.



Location: Room 456, Westwood Towers,  
5401 Westbard Avenue, Bethesda,  
Maryland

**Status: Open to the Public**

1. *School Laboratory Chemicals: Status Report.* The staff will brief the Commission on the status of a recommended outreach program, in collaboration with other interested organizations, to inform secondary school instructors of current toxicologic evaluations of laboratory chemicals, educate teachers regarding less hazardous substitute chemicals, and define other measures to reduce chemical exposures in the classrooms.

2. *Aluminum Wire Petition AP 80-2.* The staff will brief the Commission on issues related to petition AP 80-2 from Mr. Jesse Aaronstein, Ph.D., which requests a rule under section 27(e), CPSA, requiring manufacturers of electrical wiring devices to furnish consumers with information about potential overheating hazards when incompatible receptacles and switches are used with aluminum wiring.

**Closed to the Public**

3. *Enforcement Matter OS# 3347.* The staff will brief the Commission on issues related to enforcement matter OS# 3347.

Contact person for additional information: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Avenue, Bethesda, Maryland 20207, 301-492-8800.

[S-181-83 Filed 2-4-83; 11:37 am]

BILLING CODE 6355-01-M

**6**

**FEDERAL COMMUNICATIONS COMMISSION**  
February 2, 1983.

**FCC To Hold Open Commission Meeting, Wednesday, February 9, 1983**

The Federal Communications Commission will hold an Open Meeting on the subjects listed below on Wednesday, February 9, 1983, which is scheduled to commence at 9:30 A.M., in Room 856, at 1919 M Street, N.W., Washington, D.C.

**Agenda, Item No., and subject**

General—1—Title: Amendment of Part 15 of the Commission's Rules to provide for the operation of a TV Interface Device.

Summary: The Commission considers final rules for TV Interface Devices, which are intended to replace the present rules for Class I TV devices in Subpart H of Part 15. The new rules, if adopted, will permit the operation of a stand-alone RF modulator, which is used as an interface between some video source (e.g., personal computer) and the television receiver.

2 Title: A Re-Examination of Technical Standards.

Summary: The staff has prepared a combined Notice of Inquiry and Proposed Rule Making which examines the basis for the FCC's technical regulations. The item includes a table in which FCC technical standards have been classified according to their purpose.

Private radio—1—Title: Notice of Proposed Rule Making to provide for to use of facsimile by the maritime mobile service.

Summary: The FCC will consider whether to adopt a Notice of Proposed Rule Making to include in its rules provisions permitting use of the facsimile mode of communications between high seas vessels and the shore using frequencies between 2 and 27.5 MHz.

Audio—1—Title: In re application of Ettlinger Broadcasting Corporation, File No. BPH-10,075, for a new FM station in Westmorland, California.

Summary: The Commission considers the above application and a petition by the applicant seeking reconsideration of the Commission's action dismissing the application.

2—Title: License Renewal Applications of Certain Broadcast Stations Located throughout the United States.

Summary: The Commission considers a "Petition to Prevent Continuing Violations of the Commission's Equal Employment Opportunity Rule," filed by the National Black Media Coalition, which seeks Commission action in regard to Stations WGUL and WPSO(FM), New Port Richey, Florida; WTMS, Ocala, Florida; KLCL and KHEZ(FM), Lake Charles, Louisiana; WCRB(FM), Waltham, Massachusetts; WXLK(FM), Roanoke Virginia; WNRS, Saline, Michigan; WIQB(FM), Ann Arbor, Michigan; WPTW and WPTW-FM, Piqua, Ohio; WVNO-FM, Mansfield, Ohio; and WFAH and WDJQ(FM), Alliance, Ohio, because of allegedly deficient employment practices regarding Blacks.

Video—1—Title: "Petition for Reconsideration" (CSR-1678) filed June 4, 1982, by Quincy Cable TV, Inc.

Summary: Quincy Cable TV, Inc., operator of a cable television system serving Quincy, Washington, seeks reconsideration of *Quincy Cable TV, Inc.* (Quincy, Washington), FCC 82-193, 89 FCC 2d 1128 (1982), in which the Commission denied review of staff action denying reconsideration of Quincy's petition for waiver of the mandatory signal carriage rules.

2—Title: "Request for Tax Certificate" (CSR-2075) filed February 4, 1982, by Fetzer Broadcasting Company.

Summary: Fetzer Broadcasting Company, pursuant to Section 1071 of the 1954 Internal Revenue Code, requests issuance of a tax certificate in connection with the sale of Wolverine Cablevision, Inc.

Policy—1—Title: *Report and Order* in the rule making proceeding on the Suburban Community Policy, the *Berwick* Doctrine and the *De Facto* Reallocation Policy.

Summary: The Commission will consider the *Report and Order* in BC Docket 82-320.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen Peratino, FCC Public Affairs Office, telephone number (202) 254-7674.

William J. Tricarico

Secretary, Federal Communications Commission.

[S-182-83 Filed 2-4-83; 3:52 pm]

BILLING CODE 6712-01-M

**7**

**FEDERAL COMMUNICATIONS COMMISSION**  
February 2, 1983.

**FCC To Hold a Closed Commission Meeting Wednesday, February 9, 1983**

The Federal Communications Commission will hold a Closed Meeting on the subjects listed below on Wednesday, February 9, 1983 following the Open Meeting which is scheduled to commence at 9:30 A.M. in Room 856, at 1919 M Street, N.W., Washington D.C.

**Agenda, Item No., and Subject**

Hearing—1—Applications for Review in the Casey Broadcasting Company, Inc., St. Marys, Georgia FM radio comparative proceeding (BC Docket Nos. 80-381, 80-383).

2—Application for Review in the Bernard J. Winner Amateur and Citizens Band radio station license revocation and Amateur operator license suspension proceeding (Docket Nos. 79-8-10).

3—Application for Review and certified question in the Walter Norman Russell Amateur and Citizens Band station license revocation and Amateur operator license suspension proceeding (Docket Nos. 79-322-324).

4—Applications for Review in the Jerry J. Wells Amateur Radio and Citizens Band license revocation and Amateur operator's suspension proceeding. (Docket Nos. 80-14-16).

Hearing Items 1, 2, 3, and 4 are closed to the public because they concern Adjudicatory Matters (See 47 CFR 0.603 (g)).

The following persons are expected to attend: Commissioners and their Assistants, Managing Director and members of his staff, General Counsel

and members of his staff, Chief, Office of Public Affairs and members of his staff.

**Action by the Commission:**

Hearing Items 1, 2, 3, and 4 January 31, 1983. Commissioners Fowler, Chairman; Quello, Fogarty, Jones, Dawson, Rivera and Sharp, voting to consider these items in Closed Session.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Maureen P. Peratino, FCC Public Affairs Office, telephone number (202) 254-7674.

**William J. Tricarico,**

*Secretary, Federal Communications Commission.*

[S-183-83 Filed 2-4-83; 3:52 pm]

**BILLING CODE 6712-01-M**

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**Tuesday  
February 8, 1983**

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**Part II**

**Department of  
Health and Human  
Services**

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**Food and Drug Administration**

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**External Analgesic Drug Products for  
Over-the-Counter Human Use; Tentative  
Final Monograph**

**DEPARTMENT OF HEALTH AND HUMAN SERVICES****Food and Drug Administration****21 CFR Part 348****[Docket No. 78N-0301]****External Analgesic Drug Products for Over-the-Counter Human Use; Tentative Final Monograph****AGENCY:** Food and Drug Administration.**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Food and Drug Administration (FDA) is issuing a notice of proposed rulemaking in the form of a tentative final monograph that would establish conditions under which over-the-counter (OTC) external analgesic drug products are generally recognized as safe and effective and not misbranded. FDA is issuing this notice of proposed rulemaking after considering the report and recommendations of the Advisory Review Panel on OTC Topical Analgesic, Antirheumatic, Otic, Burn, and Sunburn Prevention and Treatment Drug Products and public comments on an advance notice or proposed rulemaking that was based on those recommendations. This proposal is part of the ongoing review of OTC drug products conducted by FDA.

**DATES:** Written comments, objections, or request for oral hearing before the Commissioner of Food and Drugs on the proposed regulation by April 11, 1983. New data by February 8, 1984. Comments on the new data by April 9, 1984. These dates are consistent with the time periods specified in the agency's final rule revising the procedural regulations for reviewing and classifying OTC drugs, published in the *Federal Register* of September 29, 1981 (46 FR 47730). Written comments on the agency's economic impact determination by June 8, 1983.

**ADDRESS:** Written comments, objections, or request for oral hearing to the Docket Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857. New data and comments on new data should also be addressed to the Dockets Management Branch.

**FOR FURTHER INFORMATION CONTACT:** William E. Gilbertson, National Center for Drugs and Biologics (HFD-510), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-4960.

**SUPPLEMENTARY INFORMATION:** In the *Federal Register* of December 4, 1979 (44 FR 69768) FDA published, under

§ 330.10(a)(6) (21 CFR 330.10(a)(6)), an advance notice of proposed rulemaking to establish a monograph for OTC external analgesic drug products, together with the recommendations of the Advisory Review Panel on OTC Topical Analgesic, Antirheumatic, Otic, Burn, and Sunburn Prevention and Treatment Drug Products, which was the advisory review panel responsible for evaluating data on the active ingredients in this drug class. Interested persons were invited to submit comments by March 6, 1980. Reply comments in response to comments filed in the initial comment period could be submitted by April 3, 1980.

In a notice published in the *Federal Register* of September 28, 1980 (45 FR 63878), the agency advised that it had reopened the administrative record for OTC external analgesic drug products to allow for consideration of recommendations on camphor-containing drug products that had been received from the Advisory Review Panel on OTC Miscellaneous External Drug Products after the date the administrative record previously had officially closed. The agency concluded that the Miscellaneous External Panel's recommendations should be available to the agency in developing a proposed regulation on external analgesic drug products in the form of a tentative final monograph.

In accordance with § 330.10(a)(10), the data and information considered by the Panel were put on public display in the Dockets Management Branch (HFA-305), Food and Drug Administration (address above), after deletion of a small amount of trade secret information. Data and information received after the administrative record was reopened have also been put on display in the Dockets Management Branch.

The advance notice of proposed rulemaking, which was published in the *Federal Register* on December 4, 1979 (44 FR 69768), was designated as a "proposed monograph" in order to conform to terminology used in the OTC drug review regulations (21 CFR 330.10). Similarly, the present document is designated in the OTC drug review regulations as a "tentative final monograph." Its legal status, however, is that of a proposed rule. In this tentative final monograph (proposed rule), FDA states for the first time its position on the establishment of a monograph for OTC external analgesic drug products. Final agency action on this matter will occur with the publication at a future date of a final monograph, which will be a final rule establishing a monograph for OTC external analgesic drug products.

In response to the advance notice of proposed rulemaking, 1 trade association, 10 drug manufacturers, 36 health professionals, and 4 consumers submitted comments. In response to the notice of reopening the administrative record to allow for consideration of recommendations on camphor-containing drug products, one trade association, six drug manufacturers, and one drug marketer submitted comments. Copies of the comments received are also on public display in the Dockets Management Branch.

This proposal to establish Part 348 (21 CFR 348) constitutes FDA's tentative adoption of the Panel's conclusions and recommendations on OTC external analgesic drug products as modified on the basis of the comments received and the agency's independent evaluation of the Panel's report. Modifications have been made for clarity and regulatory accuracy and to reflect new information. Such new information has been placed on file in the Dockets Management Branch (address above). These modifications are reflected in the following summary of the comments and FDA's responses to them.

FDA published in the *Federal Register* of September 29, 1981 (46 FR 47730) a final rule revising the OTC procedural regulations to conform to the decision in *Cutler v. Kennedy*, 475 F. Supp. 838 (D.D.C. 1979). The Court in *Cutler* held that the OTC drug review regulations (21 CFR 330.10) were unlawful to the extent that they authorized the marketing of Category III drugs after a final monograph had been established.

Accordingly, this provision is now deleted from the regulations. The regulations now provide that any testing necessary to resolve the safety and effectiveness issues that formerly resulted in a Category III classification, and submission to FDA of the results of that testing or any other data, must be done during the OTC drug rulemaking process, before the establishment of a final monograph (46 FR 47738).

Although it was not required to do so under *Cutler*, FDA will no longer use the terms "Category I," "Category II," and "Category III" at the final monograph stage in favor of the terms "monograph conditions" (old Category I) and "nonmonograph conditions" (old Categories II and III). This document retains the concepts of Categories I, II, and III at the tentative final monograph stage.

The agency advises that the conditions under which the drug products that are subject to this monograph would be generally recognized as safe and effective and not

misbranded (monograph conditions) will be effective 12 months after the date of publication of the final monograph in the **Federal Register**. On or after that date, no OTC drug products that are subject to the monograph and that contain nonmonograph conditions, i.e., conditions that would cause the drug to be not generally recognized as safe and effective or to be misbranded, may be initially introduced or initially delivered for introduction into interstate commerce unless they are the subject of an approved new drug application. Further, any OTC drug products subject to this monograph that are repackaged or relabeled after the effective date of the monograph must be in compliance with the monograph regardless of the date the product was initially introduced or initially delivered for introduction into interstate commerce. Manufacturers are encouraged to comply voluntarily with the monograph at the earliest possible date.

In the advance notice of proposed rulemaking for OTC external analgesic drug products (published in the **Federal Register** of December 4, 1979 (44 FR 69768)), the agency suggested that the conditions included in the monograph (Category I) be effective 30 days after the date of publication of the final monograph in the **Federal Register** and that the conditions excluded from the monograph (Category II) be eliminated from OTC drug products effective 6 months after the date of publication of the final monograph, regardless of whether further testing was undertaken to justify their future use. Experience has shown that relabeling of products covered by the monograph is necessary in order for manufacturers to comply with the monograph. New labels containing the monograph labeling have to be written, ordered, received, and incorporated into the manufacturing process. The agency has determined that it is impractical to expect new labeling to be in effect 30 days after the date of publication of the final monograph. Experience has shown also that if the deadline for relabeling is too short, the agency is burdened with extension requests and related paperwork.

In addition, some products have to be reformulated to comply with the monograph. Reformulation often involves the need to do stability testing on the new product. An accelerated aging process may be used to test a new formulation; however, if the stability testing is not successful, and if further reformulation is required, there could be a further delay in having a new product available for manufacture.

The agency wishes to establish a reasonable period of time for relabeling and reformulation in order to avoid an unnecessary disruption of the marketplace that could not only result in economic loss, but also interfere with consumers' access to safe and effective drug products. Therefore, the agency is proposing that the final monograph be effective 12 months after the date of its publication in the **Federal Register**. The agency believes that within 12 months after the date of publication most manufacturers can order new labeling and have their products in compliance in the marketplace. However, if the agency determines that any labeling for a condition included in the final monograph should be implemented sooner, a shorter deadline may be established. Similarly, if a safety problem is identified for a particular nonmonograph condition, a shorter deadline may be set for removal of that condition from OTC drug products.

All "OTC Volumes" cited throughout this document refer to the submissions made by interested persons pursuant to the call-for-data notice published in the **Federal Register** of July 21, 1972 (37 FR 14633) or to additional information that has come to the agency's attention since publication of the advance notice of proposed rulemaking. The volumes are on public display in the Dockets Management Branch.

In the **Federal Register** of September 7, 1982 (47 FR 39412), FDA issued a notice of reopening of the administrative record for OTC external analgesic drug products to allow for consideration of the Miscellaneous External Panel's recommendations on external analgesic drug products used for the treatment of diaper rash, for prevention of poison ivy, oak, and sumac, for the treatment of fever blisters, as male genital desensitizers, as astringents, and as insect bite neutralizers. The agency will address the use of external analgesic active ingredients for these uses in this rulemaking in a future issue of the **Federal Register**.

#### **I. The Agency's Tentative Conclusions on the Comments**

##### *A. General Comments on External Analgesic Drug Products*

1. One comment contended that OTC drug monographs are interpretive, as opposed to substantive, regulations. The comment referred to statements on this issue submitted earlier to other OTC rulemaking proceedings.

The agency addressed this issue in paragraphs 85 through 91 of the preamble to the procedures for classification of OTC drug products,

published in the **Federal Register** of May 11, 1972 (37 FR 9464) and in paragraph 3 of the preamble to the tentative final monograph for antacid drug products, published in the **Federal Register** of November 12, 1973 (38 FR 31260). FDA reaffirms the conclusions stated there. Subsequent court decisions have confirmed the agency's authority to issue substantive regulations by rulemaking. See, e.g., *National Nutritional Foods Association v. Weinberger*, 512 F. 2d 688, 696-98 (2d Cir. 1975) and *National Association of Pharmaceutical Manufacturers v. FDA*, 487 F. Supp. 412 (S.D.N.Y. 1980), *aff'd*, 637 F. 2d 887 (2d Cir. 1981).

2. One comment stated that two products, both containing the active ingredients camphor, menthol, eugenol, and eucalyptus oil, had "grandfathered" status under section 201(p)(1) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 321(p)(1)). The comment pointed out that, although these products do not comply with the Panel's recommended monograph because of their high level of camphor, they have been continuously marketed since 1923. The comment argued that, because of the grandfather status, the conclusions of the OTC drug review should not be applicable to these products.

The agency points out that after this comment was submitted the two products were reformulated to reduce the concentration of camphor from 25 percent to 11 percent, in conformance with the Panel's recommendations. Consequently, the question of grandfather status for those 25 percent products is moot.

The "grandfather" clause in the act of 1938 is not applicable to any drug relabeled or reformulated after June 25, 1938. Similarly, a drug marketed before the 1962 amendments to the act, which was not then a new drug or covered by a new drug application, is subject to the provisions of these amendments regarding effectiveness if the drug has been reformulated or relabeled. The 1938 and 1962 grandfather clauses apply only to the new drug provisions of the act and not to the adulteration or misbranding provisions. The OTC drug review was designed to implement both the misbranding and the new drug provisions of the act. Therefore, the grandfather clauses do not preclude the agency from reviewing any currently marketed OTC drug, regardless of whether it has grandfather protection from the new drug provisions, in order to ensure that the drug is not misbranded.

*B. Comments on External Analgesic Ingredients*

3. A number of comments expressed opinions on the Panel's recommended switch of hydrocortisone to OTC marketing status. The comments that favored OTC marketing pointed out the long history of experience with this drug as well as the savings to the consumer from OTC availability. Several comments stated that the recommended OTC indications would permit informed and prudent use of hydrocortisone products by providing consumers with appropriate examples of self-diagnosable conditions for which hydrocortisone products provide appropriate therapy. Opposing comments stated that hydrocortisone is likely to be used inappropriately because the average consumer is unable to distinguish between a simple rash and such skin conditions as herpes simplex, scabies, seborrheic dermatoses, and tinea cruris (jock itch). The comments added that inappropriate treatment and delay in diagnosis might cause the conditions to spread or become worse at considerable cost to the consumer.

The agency agrees with the Panel that the OTC marketing of hydrocortisone is of significant benefit to consumers because it provides them with an effective drug for self-treatment of certain minor skin irritations. The indications for OTC use are for self-limiting, self-diagnosable conditions. The warning proposed in § 348.50(c)(1)(iii) of this tentative final monograph, "If condition worsens, or if symptoms persist for more than 7 days or clear up and occur again within a few days, discontinue use of this product and consult a" (select one of the following: "physician" or "doctor,") is intended to prevent unlimited consumer use of these products for serious conditions that require professional treatment. (See comment 27 below.) The agency tentatively concludes that hydrocortisone is safe and effective for its labeled OTC uses and that the benefits of OTC availability outweigh any potential misuse that may occur.

4. Two comments form the same source requested that the maximum allowable concentration of camphor recommended by the Panel in § 348.10 (a)(3) be raised from 11 to 25 percent. The comments cited a study to determine the dermal irritancy and possible toxicity of 25 percent camphor and argued that the results of the study justify this higher concentration (Ref. 1). The comments also cited the long marketing history of a product containing a higher concentration of

camphor with no reports of major problems.

The agency disagrees with the comments. The study submitted by one comment to justify raising the camphor limit to 25 percent used traditional Draize procedures in which a product containing 25 percent camphor was applied to rabbits' skin for 21 consecutive days (Ref. 1). This is a standard method of testing topical irritancy. The Panel stated that camphor in concentrations above 11 percent is not harmful when used topically, but the Panel was concerned about poisoning if products containing higher concentrations were accidentally ingested (44 FR 69803). Eleven percent was chosen as a maximum limit by the Panel because higher concentrations are not any more effective as counterirritants, but can cause more serious adverse reactions if accidentally ingested. The agency concurs with the Panel's conclusion.

Furthermore, the product discussed in the comment has been reformulated, lowering the camphor concentration from 25 percent to 11 percent (Ref. 2). The agency is not aware of counterirritant products containing more than 11 percent camphor now on the OTC market; therefore, the agency finds no reason to consider camphor concentrations greater than 11 percent any further in this document.

**References**

(1) Comment No. C00027, Docket No. 78N-0301, Dockets Management Branch.

(2) Food and Drug Administration, "Drug Product Listing for Tiger Balm Ointment," Haw Par Brothers International Limited, January 15, 1980 and January 9, 1981, included in OTC Volume 06BTFM.

5. A number of comments objected to the recommendations of the Miscellaneous External Panel, included in the rulemaking for external analgesic drug products on September 26, 1980 (45 FR 63878), that the quantity of camphor in OTC drug products be limited to 2.5 percent, that no package contain more than 360 milligrams (mg) of camphor, and that safety packaging be used. One comment argued that it is unacceptable to limit household drug products to 360 mg of camphor per container, which would be the equivalent of a spoonful-size container for many products, on the basis that accidental ingestion of larger amounts may cause toxic effects. Another comment argued that the Miscellaneous External Panel was wrong in basing its calculation of the toxic dose of 30 milligrams/kilogram (mg/kg) on a single report of death following ingestion by a 150-pound man of 2 grams (g) of camphor. The comment

argued that other reports place the toxic dose higher than 30 mg/kg and that most of the reported cases of camphor poisoning may not be true poisonings with toxic signs and symptoms. The comment added that of 542 cases of camphor poisoning cited by the Poison Control Center for 1974, only 101 reported any symptoms, and of this number only 77 were hospitalized. Several comments pointed out that there are no reported fatalities associated with products containing 11 percent or less camphor, and that most of the poisonings described by the Miscellaneous External Panel were due to ingestion of camphorated oil, which contains 20 percent camphor in oil. One comment pointed out that limiting the package size to avoid potential misuse would be a proper consideration for the Consumer Product Safety Commission under the provisions of the Poison Prevention Packaging Act, and should not be incorporated into an OTC drug monograph. Another comment argued that there was no justification for applying the recommendations of the Miscellaneous External Panel to nonliquid formulations of camphor because of the lower risk of ingestion of these formulations.

The agency notes that the Topical Analgesic Panel considered various comments, reports, and editorials submitted to it concerning the toxicity and frequency of poisonings from camphor-containing preparations, particularly in children because that population has the highest incidence of such toxicity. The Panel concluded that the cases of accidental ingestion of products containing 11 percent or less camphor by children rarely resulted in severe adverse reactions and that current regulations and labeling requirements are adequate. The agency has reviewed both panels' recommendations and the adverse reaction reports for products containing camphor and concludes that, at this time, there is no need to limit camphor content to 360 mg per package for products covered by this tentative final monograph. The camphor concentration is being limited to 11 percent or lower as recommended by the Topical Analgesic Panel. (See comment number 4 above.) A final rule declaring camphorated oil products to be new drugs and misbranded was published in the *Federal Register* of September 21, 1982 (47 FR 41716).

There are few reports of adverse reactions from ingestion of solid dosage forms containing camphor; however, the agency believes that safety packaging of liquid products would reduce the risk

that children might ingest these products. The agency strongly recommends that manufacturers voluntarily package such products in child-resistant containers. In addition, these products must bear the warning: "For external use only." The agency recommends that manufacturers voluntarily print this warning in a larger size print and/or in a different color from other information on the label to draw consumers' attention to it. The agency believes that if manufacturers take these additional steps, the number of accidental ingestions can be reduced.

6. One comment requested clarification of the gap between the dosage ranges for menthol as an analgesic, anesthetic, or antipruritic (0.1 to 1.0 percent) and as a counterirritant (1.25 to 16 percent).

The Panel proposed two dosage ranges to emphasize the distinction between the two different OTC uses of menthol and the different labeling associated with each use. The agency concurs with the Panel's recommendations of these dosage ranges.

7. Two comments submitted data on the effectiveness of trolamine salicylate (formerly triethanolamine salicylate) as a topical analgesic. Based on these data, one of the comments suggested that the monograph include a class of external analgesics that "act upon painful structures below the skin by absorption of the active ingredient directly into subcutaneous structures" and that trolamine salicylate be placed in this class. The comment also suggested the following indications for this class: "For the temporary relief of minor aches and pains of muscles and joints. Also as a topical adjunct for pain due to arthritis and rheumatism." Both comments requested that trolamine salicylate be placed in Category I based on the data submitted.

The agency has reviewed the data submitted and concludes that they are not sufficient to support general recognition of effectiveness for trolamine salicylate as an OTC external analgesic.

The studies by Ehrlich (Ref. 1), Charles (Ref. 2), Brown (Ref. 3), and Roth (Ref. 4) were randomized, double-blind, crossover evaluations of 10 percent trolamine cream versus placebo. None of these studies reported any significant differences between active drug and placebo for any of the measurements recorded.

A double-blind, placebo-controlled, crossover study by Batterman and Sanders (Ref. 5) evaluated the effect of 10 percent trolamine salicylate in relieving the pain of arthritis of the hand

in two groups of patients. In one group there was subjective evidence only of superiority of the trolamine cream over placebo, whereas measurable indicators such as hand-grip strength and finger-joint circumference showed no statistically significant improvement. In the other group, trolamine salicylate showed no superiority over the placebo in any of the three measurable criteria. Thus, the results of this study do not indicate any clear superiority of trolamine salicylate over placebo.

Golden (Ref. 6) compared topically applied 10 percent trolamine salicylate cream to oral aspirin in a double-blind parallel study of the relief of rheumatic pain, concluding that the topically applied trolamine salicylate was at least as effective as aspirin in providing pain relief. However, the study design has several deficiencies. History of aspirin use, effective dose, and adverse reactions were not recorded for each subject. Without this information about aspirin response, there is a potential for bias against aspirin in treatment response and adverse reactions.

Altschuler and Golden (Ref. 7) studied 10 percent trolamine salicylate cream in patients with musculoskeletal pain. Of the six results reported, only one was statistically significant. Furthermore, the selective reporting of these six results renders this report uninformative, and no conclusions can be made concerning the effectiveness of trolamine salicylate.

Patel and Chappelle (Ref. 8) reported results observed from unblinded and uncontrolled clinical trials of trolamine salicylate in two French hospitals. The results cannot be assessed because of the lack of a control group.

The comments also included information on the penetrating properties of trolamine salicylate, including in vivo studies in animals, a boiled-egg technique said to demonstrate penetration through protein, and a cup method to demonstrate penetration through muscle and connective tissue. This information is not adequate or suitable to demonstrate effectiveness of trolamine salicylate as a topical analgesic.

Because the submitted information fails to demonstrate that this ingredient would be effective for application at the site of pain or for any use as an external analgesic, the agency does not agree with the comments that trolamine salicylate should be placed in a new class of external analgesic drug products. Trolamine salicylate remains in Category III as an anesthetic, analgesic, and antipruritic in this tentative final monograph. The agency's detailed review and evaluation of the studies submitted are on file in the

Dockets Management Branch (Refs. 9 and 10). In response to the agency's review, a comment submitted additional data on trolamine salicylate (Ref. 11). These data were submitted after the administrative record had closed and will be addressed after publication of this tentative final monograph.

#### References

- (1) Ehrlich, G. E., "Myoflex Creme in Patients with Chronic Musculoskeletal Complaints," Comment No. C0008, Docket No. 78N-0301, Dockets Management Branch.
- (2) Charles, A. A., "Myoflex Creme in the Treatment of Chronic Musculoskeletal Complaints," Comment No. C0008, Docket No. 78N-0301, Dockets Management Branch.
- (3) Brown, B., "Myoflex/Chronic Musculoskeletal Complaints," Comment No. C0008, Docket No. 78N-0301, Dockets Management Branch.
- (4) Roth, S. H., "Myoflex Arthritis Study," Comment No. C0008, Docket No. 78N-0301, Dockets Management Branch.
- (5) Batterman, R. C., and J. F. Sanders, "Myoflex Creme in Patients with Arthritic Involvement of the Hand," Comment No. C00008, Docket No. 78N-0301, Dockets Management Branch.
- (6) Golden, E. L., "A Double-Blind Comparison of Orally Ingested Aspirin and a Topically Applied Salicylate Cream in the Relief of Rheumatic Pain," *Current Therapeutic Research*, 24:524-529, 1978.
- (7) Altschuler, S., and E. Golden, "Double-Blind Comparison of Triethanolamine Salicylate with a Placebo for Pain Relief from Muscular Skeletal Pain," Comment No. C00007, Docket No. 78N-0301, Dockets Management Branch.
- (8) Patel, A., and P. A. Chappelle, "Summary of TEA Clinical Trials in France, 1976-77," Comment No. C0007, Docket No. 78N-0301, Dockets Management Branch.
- (9) Letter from W. E. Gilbertson, FDA, to W. L. Myers, Warren-Teed Laboratories, June 19, 1981, coded LET003, Docket No. 78N-0301, Dockets Management Branch.
- (10) Letter from W. E. Gilbertson, FDA, to E. L. Steinberg, Thompson Medical Co., June 19, 1981, coded LET 004, Docket No. 78N-0201, Dockets Management Branch.
- (11) Comment Nos. CP, SUP002, CR001, AMD, and AMD002, Docket No. 78N-0301, Dockets Management Branch.

#### Comments on Combination Products

8. One comment argued against the Category III classification of a combination product containing two Category I ingredients and one ingredient classified in Category III for effectiveness. The comment objected to the entire product being placed in Category III, according to the Panel's recommendations, when there has been no question of the product's safety or the effectiveness of the two Category I active ingredients. The comment argued that rather than require reformulation of the product, which would require research, stability testing, and quality



control testing, relabeling to indicate that the Category III ingredient is an inactive ingredient should be permitted.

The agency has published a proposed rule dealing specifically with the use of inactive ingredients in OTC drug products. (See the *Federal Register* of April 12, 1977 (42 FR 19156).) The proposal identified suitable physical or technical functions (e.g., denaturing agents, emollients, dispersing agents) that an inactive ingredient must perform to be regarded as appropriate for use in OTC drug products. The rule proposed to preclude the retention and redesignation of an active ingredient as an inactive ingredient unless it performs one of these functions. Although this proposal has not yet been published as a final rule, the agency does not sanction arbitrary redesignation to inactive status of ingredients that were submitted as active ingredients and for which data are insufficient to show effectiveness. If such ingredients were retained in a formulation and designated inactive, consumers would be needlessly exposed to them without any corresponding benefit. Many ingredients that are generally recognized as safe are still capable of causing side effects, allergic reactions, etc.

Paragraph 5 of the agency's "General Guidelines for OTC Drug Combination Products" (Ref. 1) provides that "In some cases an ingredient may be appropriate for use only in a specific combination or data may be available only to support the use of the ingredient in combination but not as a single ingredient. In such cases the ingredient will be placed in Category I for use only in permissible combinations and not as a single ingredient." The comment did not mention the specific ingredients contained in its product, nor did it submit any data to support the use of the Category III ingredient in the combination product only. If data are submitted to support the use of the ingredient in the combination, i.e., showing contribution to the claimed effect, as required by 21 CFR 330.10(a)(iv), then it could be classified as Category I for use in the specific combination but not as a single ingredient.

#### Reference

(1) Food and Drug Administration, "General Guidelines for OTC Drug Combination Products," September, 1978, Docket No. 78D-0322, Dockets Management Branch.

9. One comment, from the author of the Panel's minority report on combination products (44 FR 69787-69790), suggested a number of changes in the minority report, which, the

comment stated, would make it consistent with the agency's general guidelines for OTC drug combination products (Ref. 1), which were published after the Panel had adopted its report. The comment requested that this minority report, with suggested revisions, replace the combination policy recommended by the majority of the Panel members in § 348.20, adding that such a replacement would eliminate the provisions of the majority report that have no therapeutic or scientific basis.

The agency accepts the changes in the minority report and has considered these revisions along with the combination policy developed by the majority of the Panel and other comments received (see comment 8 above and comments 10, 11, and 12 below). The agency's proposed regulations for combinations of OTC external analgesic active ingredients, based on the consideration of all these factors, are set forth in § 348.20 of this tentative final monograph. The agency believes these proposed regulations have therapeutic and scientific bases and are consistent with the regulations governing combinations of OTC active ingredients in § 330.10(a)(4)(iv) and the agency's supplementary guidelines (Ref. 1). Therefore, the agency sees no reason for the revised minority report to replace the combination policy recommended by the majority of the Panel.

#### Reference

(1) Food and Drug Administration, "General Guidelines for OTC Drug Combination Products," September 1978, Docket No. 78D-0322, Dockets Management Branch.

10. One comment supported the combination policy recommended by the majority of the Panel (44 FR 69785), but objected to limiting combination products to no more than one active ingredient from each specified group in § 348.20 (a), (b), and (c). The comment requested that more than one ingredient from each group be permitted provided that the combination conforms with the OTC drug review regulations (§330.10(a)(4)(iv)).

The combination policy in § 330.10(a)(4)(iv), as supplemented by the agency's general guidelines for OTC drug combination products (Ref. 1), specifies the criteria for OTC combination drug products. The agency's guidelines state that ingredients from the same therapeutic category that have different mechanisms of action may be combined to treat the same symptoms or condition if the combination meets the OTC combination policy in 21 CFR 330.10(a)(4)(iv) in all respects and the

combination is, on a benefit-to-risk basis, equal to or better than each of the active ingredients used alone at its therapeutic dose. The guidelines also state that Category I active ingredients from the same therapeutic category that have the same mechanism of action should not ordinarily be combined unless there is some advantage over the single ingredient in terms of enhancing effectiveness, safety, patient acceptance, or quality of formulation. Thus, the combination policy in § 330.10(a)(4)(iv) and the agency's supplementary guidelines do not limit the number of ingredients from the same pharmacologic group that may be combined, provided data are presented to show that the combination meets the necessary criteria. The comment, however, did not submit any such data. Combinations containing ingredients from the same pharmacologic group will be permitted if adequate data are presented to the agency, and § 348.20 will be amended accordingly.

#### Reference

(1) Food and Drug Administration, "General Guidelines for OTC Drug Combination Products," September 1978, Docket No. 78D-0322, Dockets Management Branch.

11. One comment requested that hydrocortisone be allowed in combination with the ingredients in group II A (the "caine" type analgesics) listed at 44 FR 69786. The comment argued that to prohibit such combinations is a departure from the combination policy set forth in 21 CFR 330.10(a)(4)(iv), that the marketing history of these combinations in prescription products does not show any adverse reactions, and that the effectiveness of such combinations is well documented by the effectiveness of the individual ingredients. Another comment requested that hydrocortisone combinations not be classified in Category II because there are various other pharmacological categories of drugs that can properly be combined with hydrocortisone, such as antifungal agents or skin protectants. The comment requested that consideration be given to including under § 348.20(b) combinations of hydrocortisone with the other ingredients listed under recommended § 348.10(b).

The agency does not agree with the comments that hydrocortisone should be allowed to be marketed OTC in combination with other external analgesic active ingredients at this time. The "caine"-type analgesics have indications similar to hydrocortisone, but have different mechanisms of action.

FDA's General Guidelines for OTC Drug Combination Products allow for such combinations if the combination is on a benefit-to-risk basis equal to or better than each active ingredient used alone at its therapeutic dose (Ref. 1). However, no evidence has been submitted demonstrating that the combination of hydrocortisone with a "caine" analgesic would meet this criterion. If such data are received, the agency will consider an addition to § 348.20.

The agency notes that the Panel's recommended monograph for skin protectant drug products, published in the *Federal Register* of August 4, 1978 (43 FR 34628), provides for certain skin protectants to be labeled for the symptoms of oozing or weeping due to poison oak or poison ivy (§ 347.50(b)(6)), while the recommended monograph for external analgesic drug products includes relief of minor skin irritations, itching, and rashes due to poison oak or poison ivy in the label indication for hydrocortisone (§ 348.50(b)(3)). The agency therefore will consider the combination of a skin protectant with hydrocortisone for treatment of the symptoms of poison oak or poison ivy if data to support such a combination are submitted. Combinations of antifungal agents and hydrocortisone were considered by the Antimicrobial II Panel in its report on antifungal drug products, published in the *Federal Register* of March 23, 1982 (47 FR 12480). Such combinations will be addressed in that rulemaking.

#### Reference

(1) Food and Drug Administration. "General Guidelines for OTC Drug Combination Products," September 1978, Docket No. 78D-0322, Dockets Management Branch.

12. One comment stated that the Panel's recommendations in § 348.20(a) would not allow a combination of camphor and menthol, but would allow a combination of camphor, menthol, and certain other external analgesic active ingredients. The comment requested that § 348.20(a) be amended to allow combination products containing only camphor and menthol as the active ingredients.

The agency agrees with the comment that the monograph should provide for combination products containing camphor and menthol as the only active ingredients. The omission of this combination appears to have been an oversight. Accordingly, the agency is proposing to amend § 348.20 by adding new paragraph (a)(6) to read as follows:

(6) Camphor identified in § 348.12(b)(1) may be combined with menthol identified in § 348.12(b)(2).

13. One comment stated that the Panel's recommended concentration limits for phenol and camphor are not appropriate for a product containing a complex of the two ingredients and requested that 4.7 percent phenol combined with 10.8 percent camphor in light mineral oil be permitted in analgesic, anesthetic, and antipruritic drug products. The comment argued that the clathrate complex that is formed when camphor is combined with phenol significantly reduces the available phenol and camphor. The comment submitted data to show that the combination is less irritating than the same amount of phenol or camphor alone and added that, based on actual consumer use, a product containing this camphor/phenol combination produces remarkably little irritation or erythema (Ref. 1).

Another comment from a manufacturer of products containing camphorated metacresol, which is composed of camphor and metacresol in a 3-to-1 ratio, objected to the Category III status of 1 to 3 percent camphorated metacresol and the Category II status of camphorated metacresol over 3 percent concentration (Ref. 2). The comment explained that the action of cresol is not associated with protein binding and would not therefore encourage continued release of "free" metacresol. The comment stated that toxic doses of cresol far exceed the quantities released even by products containing 88 percent camphorated metacresol. The comment argued that its products, which contain from 4 to 88 percent camphorated metacresol (composed of 1 to 22 percent metacresol and 3 to 66 percent camphor), should be placed in Category I based on their long history of safe use, and on data showing that metacresol is the least toxic of the cresols, that metacresol is less toxic than phenol, and that the rate of absorption of metacresol depends more on the area covered than on the concentration (Ref. 3).

The Agency agrees with the comment and the Panel that phenol combined with camphor can be safely used at a higher concentration than phenol used alone. Since the Panel adopted its report, the agency has verified that the amount of free phenol is reduced when camphor and phenol are combined (Ref. 4). Although the Panel recommended in its monograph a maximum level of 2 percent phenol and did not provide for a different concentration of phenol in combination with camphor, the Panel stated in its report that "When camphor is added to phenol, a liquid forms. This reduces the severity of the topical reaction and the absorption of phenol \* \* \*" (44 FR 69833). In addition, the

summary minutes of the Panel's seventh meeting indicate that the Panel intended to place the combination of 4.7 percent phenol and 10.8 percent camphor into Category I for both safety and effectiveness (Ref. 5). The Panel concluded that both phenol and camphor as single ingredients are Category I. The Panel's Category I recommendation for the complex was inadvertently omitted from its recommended monograph.

Another panel, the Advisory Review Panel on OTC Antimicrobial Drug Products (Antimicrobial I Panel), stated that "when camphor is used with phenol in an oil formulation, the concentration of phenol should be no more than 5 percent" (39 FR 33133). In reviewing data on camphor/phenol combinations, the Antimicrobial I Panel concluded that "the presence of camphor also retards the absorption of phenol after topical application. A 1-hour exposure of the rat tail to a 4.8 percent aqueous phenol solution resulted in the absorption of 71 mg of phenol; whereas, the exposure to 10.9 percent camphor combined with 4.5 percent phenol resulted in the absorption of only 16 mg phenol" (39 FR 33122). The agency concluded in the tentative final monograph for OTC topical antimicrobial drug products "that the total concentration of phenol in powders and in aqueous, alcoholic or oil formulations be restricted to less than 1.5 percent. When camphor is used with phenol in an oil formulation, the concentration of phenol should be no more than 5 percent" (43 FR 1238). To reduce the irritating potential of phenol when concentrations of 4.7 percent are used, camphor must be present in excess of that concentration (Refs. 1 and 4). Accordingly, the agency is proposing that 4.7 percent phenol, when it is combined with 10.8 percent camphor, be included in the tentative final monograph. The agency is proposing to add new paragraph (b)(4) to § 348.20 to read as follows:

(4) Camphor and phenol identified in § 348.10(b)(3) and (8) may be combined in a light mineral oil, USP vehicle.

At this time, the agency is proposing to restrict the vehicle to light mineral oil, USP, because safety and effectiveness have been established in that vehicle only. Different vehicles can change the irritating properties of the combination (Refs. 6 and 7). There is evidence that vehicles containing glycerin or gelling agents such as silicon dioxide can increase the irritating properties of the combination (Ref. 7). Therefore, all other vehicles are classified as Category III at this time. Interested persons may submit data to support the use of other vehicles.

Regarding camphorated metacresol, the Panel stated that it is either a "complex" formed by the interaction of camphor with metacresol or a solution of the cresol in camphor. Since the panel adopted its report, the agency has determined that metacresol behaves similarly to phenol with respect to bonding with camphor and therefore can be considered a "complex" and categorized as camphorated metacresol (Ref. 4).

As a single ingredient, metacresol was not reviewed by the Panel. However, it has been shown to be somewhat less toxic than phenol based on the following LD<sub>50</sub> data (Ref. 3):

LD<sub>50</sub> METACRESOL AND PHENOL (IN G/KG)

Species	Route	Meta-cresol	Phenol
Rabbit	Subcutaneous	0.50	0.50
Cat	Subcutaneous	0.18	0.08
Mouse	Subcutaneous	0.45	0.35
Cat	Intravenous	0.28	0.18

The results indicate that the range of acute toxicity of metacresol is similar to phenol.

Based on the available information, which includes recognition of the combination of phenol and camphor as Category I, data showing metacresol is equal to or less toxic than phenol, and the new data showing that metacresol bonds to camphor similarly to phenol, the agency concludes that camphorated metacresol is Category I but only when prepared from camphor and metacresol combined in a 3-to-1 ratio not to exceed a concentration of 10.8 percent camphor. Based on a 3-to-1 ratio of camphor to metacresol with a limit of 10.8 percent camphor, the upper limit for metacresol is 3.6 percent. This 3-to-1 ratio results in reduced irritation (Ref. 2). The agency is proposing a lower limit of 1 percent metacresol based on information on marketed products submitted by the comment (Ref. 2). Accordingly, the agency is proposing to add new paragraph (b) to § 348.3, *Definitions*, in this tentative final monograph to read as follows:

(b) *Camphorated metacresol*. a complex consisting of camphor and metacresol combined in a ratio of 3 parts camphor to 1 part metacresol.

The comment did not provide sufficient data to establish general recognition of safety of a concentration of metacresol greater than 3.6 percent when this ingredient is combined with camphor. The studies reviewed by the Panel and the studies submitted by the comment (Ref. 2) were very limited in scope and are inadequate to demonstrate safety of higher concentrations. Most of the animal

toxicity studies tested only one animal, observed the animal only for a short period of time, and did not include a detailed examination of the animal following drug application. The comment's statements about rate of release of metacresol are unproven because the comment submitted no information on the quantity of metacresol released under the conditions of use. The comment also did not submit any data to support the safety of concentrations of camphor above 10.8 percent.

In regard to the comment's claim of "long history of safe use," marketing history alone cannot be regarded as adequate proof of safety. The safety of camphorated metacresol as an external analgesic above the established dosage (not to exceed 3.6 percent metacresol and 10.8 percent camphor) has not been established, and therefore concentrations above this dosage remain in Category III.

#### References

- (1) Comment No. C0013, Docket No. 78N-0301, Dockets Management Branch.
- (2) Comment No. C0006, Docket No. 78N-0301, Dockets Management Branch.
- (3) Public Health Service, The National Institutes of Health, "Phenol and Its Derivatives: The Relation Between Their Chemical Constitution and Their Effect on the Organism," by W. F. Von Oettingen, National Institutes of Health Bulletin, No. 190, pp. 59-71, 1949.
- (4) "OTC Drugs," (Camphor and Phenol), Semiannual Report of Laboratory Activities, Bureau of Drugs, Food and Drug Administration, October 1981 to July 1982, Docket No. 78N-0301, Docket Management Branch.
- (5) Summary minutes of Seventh Meeting of the Advisory Review Panel on OTC Topical Analgesic, Antirheumatic, Otic, Burn, and Sunburn Prevention and Treatment Drug Products, p. 4, January 30 and 31, 1974, included in OTC Volume 06BPA2.
- (6) Deichmann, W. B., T. Miller, and J. B. Roberts, "Local and Systemic Effects Following Application of Dilute Solutions of Phenol in Water and in Camphor-Liquid Petrolatum on the Skin of Animals," *Archives of Industrial Hygiene and Occupational Medicine*, 2:454-461, 1950.
- (7) Sterling-Winthrop Research Institute, "Eye and Skin Irritation Study with Camphor-Phenique Gel in the Rabbit," Table III, unpublished study, September 26, 1977, Comment No. C0013, Docket No. 78N-0301, Dockets Management Branch.

#### D. Comment on Testing of External Analgesic Drug Products

14. One comment suggested several methods for testing the actions, effects, and efficacy of external analgesic ingredients. These included a laboratory animal study utilizing trolamine salicylate tagged with Carbon-14 to determine the degree of local

penetration and distribution of this ingredient and developing a model to study the effects of topically applied trolamine salicylate on local tissue prostaglandin levels. In addition, the comment suggested a method of testing external analgesic ingredients in humans that is detailed in a published study and involves inducing muscle soreness by a controlled amount of exercise and measuring the bioelectrical activity of the muscle by electromyography before and after external analgesic use to determine muscle soreness and the extent of drug activity (Ref. 1).

In the *Federal Register* of September 29, 1981, (49 FR 47740), the agency published a policy statement that included procedures for the submission and review of proposed testing protocols, for agency meetings with industry or other interested persons, and for agency communications on submitted test data and other information. Under this policy, the agency provides consultation on protocols or testing guidelines, but these communications are not included in the administrative record for the related OTC drug monograph unless they directly influence an agency decision on a particular matter in the monograph or provide the substantiation for the agency's decision on that matter. For example, a protocol or test guideline would not normally become part of the administrative record, but the results of the study would be included in the administrative record. The testing methods suggested by the comment do not influence the agency's decision on the Category III status of trolamine salicylate; therefore, they will not be discussed further in this document.

#### Reference

- (1) White, J. R., and J. N. Sage, "Topical Analgesic on Induced Muscular Pain," *Physical Therapy*, 50:166-172, 1970.

#### E. Comments on Labeling of External Analgesic Drug Products

15. Several comments objected to the agency's policy of specifying a limited list of terms as the only permissible indications for external analgesic products. One of the comments argued that it is improper and inappropriate to legislate the use of words and phrases through a rulemaking. One comment stated that the agency lacks statutory authority to prescribe exclusive lists of terms. All the comments requested that the final monograph allow the use of alternative or additional labeling terms that are truthful, accurate, not

misleading, and intelligible to the consumer.

During the course of the OTC drug review, the agency has maintained that a monograph describing the conditions under which an OTC drug will be generally recognized as safe and effective and not misbranded must include both specific active ingredients and specific labeling. (This policy has become known as the "exclusivity rule.") The agency's position has been that it is necessary to limit the acceptable labeling language to that developed and approved through the OTC drug review process in order to ensure the proper and safe use of OTC drugs. The agency has never contended, however, that any list of terms developed during the course of the review literally exhausts all the possibilities of terms that appropriately can be used in OTC drug labeling. Suggestions for additional terms or for other labeling changes may be submitted as comments to proposed or tentative final monographs within the specified time periods or through petitions to amend monographs under § 330.10(a)(12). For example, the labeling proposed in this tentative final monograph has been expanded and revised in response to comments received.

During the course of the review, FDA's position on the "exclusivity rule" has been questioned many times in comments and objections filed in response to particular proceedings and in correspondence with the agency. The agency has also been asked by The Proprietary Association to reconsider its position. To assist the agency in resolving this issue, FDA conducted an open public forum on September 29, 1982 at which interested parties presented their views. The forum was a legislative type administrative hearing under 21 CFR Part 15 that was held in response to a request for a hearing on the tentative final monograph for nighttime sleep-aids and stimulants (published in the *Federal Register* of June 13, 1978; 43 FR 25544). The agency's final decision on this issue will be announced in the *Federal Register* following conclusion of its review of the material presented at the hearing.

16. One comment disagreed with the Panel's recommendations that inactive ingredients and the quantity of the ingredient be listed in the labeling of OTC external analgesic drug products. The comment argued that a list of inactive ingredients would be meaningless to all but a few consumers and that such a list might overemphasize the importance of the

inactive ingredients, obscure more meaningful information such as warnings or directions for use, and be more confusing than helpful. The comment also stated that if the quantity of the inactive ingredients had to be listed there would be an additional problem of changing the labels whenever the quantity of an inactive ingredient is changed.

The agency agrees with part of the Panel's recommendation. The Federal Food, Drug, and Cosmetic Act does not require the identification of all inactive ingredients in the labeling of OTC drug products. Section 502(e) (21 U.S.C. 352(e)) does require disclosure of active ingredients and of certain ingredients, whether included as active or inactive components in a product. Although the inclusion of all inactive ingredients in OTC drug product labeling is not required, the agency urges manufacturers to list all inactive ingredients voluntarily, as suggested by the Panel. Consumers with known allergies or intolerance to certain ingredients could then select products with increased confidence of safe use.

With regard to listing the quantity of inactive ingredients, section 502(e) (21 U.S.C. 352(e)) limits the requirement for stating the quantity of active ingredients in OTC labeling to those specifically named in that section. The agency cannot require listing of the quantity of any ingredient, whether active or inactive, in OTC drug products, except those designated in the act.

17. One comment questioned the Panel's qualifications and competence to evaluate and judge what message was being communicated to the consumer, expressed in lay terms, in its recommended labeling. The comment stated that in many cases the words and phrases recommended by the Panel were based on the Panel's own perceptions as to what the terms communicate to the consumer and that the Panel did not provide any documentation, surveys, etc., to support its findings.

Since its inception, the OTC drug review has focused on developing labeling of OTC drug products that can be understood by the average consumer. While the agency acknowledges that professional experience in mass communication was not a criterion for participation in the OTC drug advisory review panels, the clinical background of the physicians, pharmacists, and other health professionals on each panel involved direct experience with patients and an awareness of the terms used by them to refer to their symptoms. In addition to members of the scientific

and medical communities, each panel included representatives from industry and consumer groups and thus had access to the experience of these groups in mass communication of medical terminology. Finally, any citizen interested in doing so could participate in the OTC drug review by presenting views at panel meetings, and, now that the panels have concluded their reviews, by commenting on advance notices of proposed rulemaking or by commenting or objecting to tentative final monographs proposed by the agency. A number of changes in the Panel's recommended labeling of external analgesic products have been incorporated into the agency's proposed labeling as a result of comments received. The agency urges anyone having suggestions for making the labeling language used in the external analgesic final monograph more understandable to the average consumer to submit these suggestions in comments responding to this document. After a final monograph for external analgesic drug products is issued, such suggestions may be made in the form of a petition to amend the monograph according to the procedures described in 21 CFR 10.30.

18. One comment to the advance notice of proposed rulemaking for OTC cold, cough, allergy, bronchodilator, and antiasthmatic drug products (published in the *Federal Register* of September 9, 1976; 41 FR 38312) requested that OTC external analgesic drug products be included in the table at 41 FR 38320 that listed specific symptoms and the corresponding pharmacologic groups of drugs for the treatment of these symptoms. The comment suggested that item 8 of the table, "Generalized aching," be expanded to include the Category I labeling indications for topical analgesics, counterirritants, and rubefacients recommended by the Topical Analgesic Panel.

The agency does not agree that external analgesic drug products are suitable for inclusion in item 8 of the Cough/Cold Panel's table because this inclusion would imply that external analgesics should be labeled for relief of symptoms of aching due to common cold. The agency is not aware of any data, nor were any submitted, indicating that these products are effective in relieving symptoms of aching due to the common cold. If such data are submitted in the future, the agency will reconsider this claim.

19. One comment suggested that the claims not reviewed by the Topical Analgesic Panel but considered by other panels (e.g., "antiseptic," "fungistatic for

athlete's foot") and claims deferred to other panels (e.g., "pain due to hemorrhoids," "piles,") should not have been listed under Category II labeling in paragraphs (d) and (e) (44 FR 69845), but should have been left unclassified, pending classification by the appropriate panels.

The agency agrees with the comment that the claims under (d) and (e) at 44 FR 69845 should not be classified in Category II in the rulemaking for external analgesic drug products. These claims have been deferred to other panels and are covered in separate rulemaking proceedings. With the exception of claims relating to diaper rash, these claims will no longer be considered in this rulemaking. Drug products for the treatment of diaper rash were reviewed by the Advisory Review Panel on OTC Miscellaneous External Drug Products, which recommended that some of the ingredients in those drug products be evaluated in the external analgesic rulemaking. As noted above the **Federal Register** of September 7, 1982 (47 FR 39412) included a notice of reopening of the administrative record to include the Miscellaneous External Panel's statement on drug products for the treatment of diaper rash. The agency will address the use of external analgesic active ingredients for the treatment of diaper rash in this rulemaking in a future **Federal Register** publication.

20. One comment stated that there is no evidence that the term "external analgesic," the Panel's recommended statement of identity, is more informative to consumers than other terms such as "topical analgesic" or "pain relieving ointment." The comment suggested that the latter terms be allowed in addition to "external analgesic."

The agency agrees that the terms referred to by the comment would be as informative to consumers as the Panel's recommended statement of identity. Therefore, the agency is proposing the following alternative statements of identity in § 348.50(a)(1): "The labeling identifies the product as an 'external analgesic,' 'topical analgesic,' or 'pain relieving (*insert dosage form, e.g., cream, lotion, or ointment*).'"

21. Several comments requested that the statement of identity for OTC hydrocortisone products be changed from "antipruritic" to "anti-itch." The comments argued that "antipruritic" is a technical term that would not be understood by most consumers and that the term "anti-itch" would be more meaningful.

The agency agrees with the comments that the term "antipruritic" may not be

well understood by many consumers and, if used, should be associated with a nontechnical term. Accordingly, the following statements of identity are being proposed for hydrocortisone products in § 348.50(a)(2): "antipruritic (anti-itch)," "anti-itch," and "antipruritic (anti-itch)" or "anti-itch" followed by a description of the dosage form, e.g., "anti-itch cream."

22. One comment stated that hydrocortisone is probably not effective for the relief of itching due to insect bites, or for contact dermatitis due to poison ivy, oak, and sumac and that more potent corticosteroids are usually required for these problems. Another comment questioned "whether consumers can accurately diagnose contact 'dermatitis' due to 'poison oak' or 'poison sumac'" and added that the labeling terminology should be revised.

The agency is aware that severe skin inflammation caused by poison ivy does not respond to topically applied hydrocortisone, and that even the stronger halogenated steroids are not effective when used topically in such instances. Severe poison ivy often requires systemic steroid therapy. Topically applied hydrocortisone is also not effective in relieving severe reactions to insect bites. However, the itching due to mild poison ivy and to normal reactions to insect bites is relieved by topical hydrocortisone at OTC strength (Refs. 1, 2, and 3). The agency believes that the words "temporary" and "minor" in the indications for hydrocortisone are sufficient to alert consumers to the appropriate use of this ingredient. The agency is proposing deletion of the word "dermatitis" from the OTC hydrocortisone label because this word is not apt to be readily understood by consumers. This word is suitable for professional labeling, and a closely related term, "dermatoses," is included under "Indications and Usage" in the agency's class labeling guideline for topical corticosteroids (Ref. 4). Manufacturers should follow this guideline in developing professional labeling for hydrocortisone drug products. The terms "poison oak" and "poison sumac" are retained in the proposed OTC labeling because these plants and the rash and itching they cause are familiar to consumers who live in areas in which the plants are found.

#### References

(1) Letter from A. M. Kligman to C. C. Evans, FDA, November 3, 1980, Docket No. 78N-0301, Dockets Management Branch.

(2) Fisher, A. A., "Contact Dermatitis," 2d Ed., Lea and Febiger, Philadelphia, pp. 264-265, 1973.

(3) Domonkos, A. N., H. L. Arnold, and R. E. Odom, "Andrews' Diseases of the Skin," 7th Ed., W. B. Saunders Co., Philadelphia, p. 559, 1982.

(4) Food and Drug Administration, "Topical Corticosteroids Class Labeling Guideline," Docket No. 81D-0274, Dockets Management Branch.

23. One comment stated that, because the claim "relief of cuts, scratches, abrasions, wounds, etc.," is similar to indications recommended by the Panel in § 348.50(b)(2), the Panel must have inadvertently included this claim under Category II labeling at 44 FR 69844-69845.

The Panel concluded that the above claim was confusing and meaningless to consumers because external analgesic drug products relieve the pain of cuts, scratches, abrasions, wounds, etc., but do not provide "relief of cuts \* \* \*". The agency concurs with the Panel's Category II classification of this claim.

24. One comment argued that there is a need for a distinction between the labeling of topical analgesic and topical anesthetic ingredients. The comment stated that the Panel had differentiated between analgesics and anesthetics through distinct definitions in § 348.3(d) and (e), by establishing separate subgroups of external analgesics (44 FR 69786), and in its combination policy. The comment pointed out that topical analgesics depress cutaneous sensory receptors without necessarily abolishing other sensations (i.e., cause a partial blocking of subcutaneous terminal nerve endings), whereas topical anesthetics completely block pain receptors, resulting in a sensation of numbness. The comment concluded that consumers should be informed of these distinctions and suggested the following examples of wording that could be used in the indications for topical anesthetic ingredients: "complete temporary relief \* \* \*," "completely blocks \* \* \*," "temporarily stops \* \* \*," "completely stops \* \* \*."

The agency does not agree that there is a need for a distinction between the labeling of topical analgesic and topical anesthetic products. In use, the effect of topical anesthetics is indistinguishable from the effect of topical analgesics. Topical anesthetics are theoretically capable of completely blocking pain receptors, but factors may affect the penetration of topical anesthetics through the skin and prevent complete blocking of the subcutaneous pain receptor site. Some of the factors affecting penetration of topical

anesthetics through the skin are as follows: (1) Drugs more readily penetrate to the subcutaneous receptor sites through damaged skin than through intact skin. Therefore, the effect of topical anesthetic products may be enhanced when they are applied to abraded, scratched, or burned skin. (2) Drugs penetrate hydrated skin and thin skin (for example, in the groin area) more readily than thick skin (such as on the palms of the hands). (3) Penetration may be affected by certain disease conditions such as eczema, which causes thinning of the skin; by product formulation; or by ionization of the active ingredient.

Because of these factors and because the Panel felt that there is no recognizable difference in effectiveness between anesthetics and analgesics, the Panel recommended that topical analgesics and anesthetics that depress cutaneous sensory receptors bear the same indication: "For the temporary relief of minor aches and pains of \* \* \*". The agency believes that consumers would be misled if an external analgesic product were labeled as providing "complete temporary relief," "completely stops," or "completely blocks" minor aches and pains. The agency concurs with the Panel's recommended wording ("for the temporary relief of") and is proposing this wording in the tentative final monograph.

25. Two comments stated that the following language should be allowed in the labeling of external analgesic drug products, based on language that was not recommended by the Panel but was contained in its report: "for relief of pain in joints, muscles, tendons," "relieves pain without causing numbness," "completely blocks pain receptors," "relieves pain by reducing inflammation," "numbs and abolishes responses to painful stimuli," and "rheumatism."

The Panel allowed the claim "for the temporary relief of minor aches and pains of muscles and joints." The agency concurs with the Panel that the indications for OTC external analgesic drug products should emphasize that these products relieve only minor pain and have an action that is only temporary. The Panel did not review data on the use of external analgesic drug products for relief of pain in tendons, nor did the comment submit any data. Thus the agency is not proposing a claim for relief of pain in tendons until data are submitted to demonstrate the effectiveness of external analgesic drug products at these sites.

Claims regarding numbness or similar claims, such as completely blocking pain receptors or abolishing responses to painful stimuli, may be misleading to consumers because the manner in which external analgesic drug products are used determines whether they cause numbness or not. For example, the application of a product on abraded skin may cause numbness because of increased absorption that occurs, whereas application of the same product on intact skin may not cause numbness. (See comment 24 above.)

The agency believes that the term "reducing inflammation" should not be included as an indication—except when the term "inflammation" is used as a descriptive term related to the relief of itching associated with the nonserious conditions in the recommended indication for hydrocortisone and hydrocortisone acetate. (See comment 29 below for further discussion.) While the terms "arthritis" and "rheumatism" are used interchangeably by some consumers, "arthritis," the more accurate and precise term, is more readily understood by the majority of consumers. Substituting the term "rheumatism" probably would not increase consumers' understanding of the use of counterirritants and might cause confusion. In addition, the agency proposes to delete the terms "lumbago" and "neuralgia" from the Panel's recommended labeling in § 348.50(b)(1) because they are not readily understood by consumers. The revised indication in § 348.50(b)(1) for external analgesic products containing counterirritant active ingredients is as follows: "For the temporary relief of minor aches and pains of muscles and joints" [which may be followed by: "associated with" (select one or more of the following: "simple backache," "arthritis," "sprains," "bruises," and "sprains.")]

26. Three comments disagreed with the Panel's placement of claims such as "relief of deep-seated pain," "deep strength," and "penetrating heat relief" in Category III. The comments claimed this classification was inconsistent with various statements made by the Panel about the mechanism of action of counterirritants (44 FR 69779), and the following statement regarding methyl salicylate: "methyl salicylate acts as a counterirritant for the temporary relief of deep-seated pain" (44 FR 69830). The comments maintained that relief of "deep-seated pain" is an established benefit of counterirritant ingredients, and that claims such as "deep strength," "penetrating heat relief," and "relief of deep-seated pain" should be acceptable claims along with claims such as

"penetrating relief" that were found acceptable by the Panel.

One comment argued that the following labeling terms that the Panel placed in Category II are not misleading or meaningless to consumers: "fast," "swift," "sudden," "immediate," "prompt," "poignant," and "bright." The comment added that the Panel did not give any reason why the term "fast" was considered misleading. Another comment stated that studies submitted to the Panel show that certain external analgesic ingredients do act within minutes, and their action may be considered "fast" in layman's terms, pointing out that the Panel failed to describe what time period would be acceptable as "fast," i.e., what data it considered sufficient to support this claim.

The OTC drug review program establishes conditions under which OTC drugs are generally recognized as safe and effective and not misbranded. Two principal conditions examined during the review are allowable ingredients and allowable labeling. The FDA has determined that it is not practical—in terms of time, resources, and other considerations—to set standards for all labeling found in OTC drug products. Accordingly, OTC drug monographs regulate only labeling related in a significant way to the safe and effective use of covered products by lay persons. OTC drug monographs establish allowable labeling for the following items: product statement of identity; names of active ingredients; indications for use; directions for use; warnings against unsafe use, side effects, and adverse reactions; and claims concerning mechanism of drug action.

As with all OTC drug products, external analgesics are expected to achieve their intended results within a reasonable period of time. However, the specific period of time within which external analgesics achieve these results is not related in a significant way to the safe and effective use of the products. Therefore, terms such as "fast," "prompt," "swift," "sudden," and "immediate" would not signal any property that is important to the safe and effective use of these products, and these terms are outside the scope of the OTC drug review. For other classes of products in the OTC drug review, however, statements relating to time of action may properly fall within the list of terms covered by the monograph. Likewise, claims concerning nontherapeutic characteristics of drugs such as color, odor, or touch (e.g., "bright," "poignant," "pleasantly scented," or "greaseless"), as discussed



by the Panel at 44 FR 69784-69785, are not dealt with in OTC drug monographs. The agency emphasizes that even though these terms are outside the scope of the OTC drug review, they are subject to the prohibitions in section 502 of the act (21 U.S.C. 352) relating to labeling that is false or misleading. Such terms will be evaluated by the agency in conjunction with normal enforcement activities relating to that section of the act. Moreover, any term that is outside the scope of the review, even though it is truthful and not misleading, may not appear in any portion of the labeling required by the monograph and may not detract from such required information.

Claims concerning characteristics of therapeutic performance (e.g., "penetrating heat relief") will be dealt with only in cases where they imply the existence of a characteristic that would be therapeutically significant for the drug in question, if proved. The agency tentatively concludes that the statement "penetrating heat relief" does not describe therapeutically significant performance characteristics and will not be dealt with in this monograph. Accordingly, "penetrating heat relief" has been deleted from the section on Category III labeling (44 FR 69857). For the same reason, statements such as "penetrating relief," "warm comforting relief," and "penetrating cooling action," which were found reasonable and informative to consumers by the Panel (44 FR 69785), will not be dealt with in this tentative final monograph. The claim "penetrating pain relief," however, does describe a therapeutically significant performance characteristic by explaining the effect of counterirritants in language easily understood by consumers. However, the agency agrees with the Panel that this statement and similar ones should not be included as indications (44 FR 69785). Accordingly, the agency is proposing new § 348.50(b)(4) in this tentative final monograph under the heading "Other allowable statements," to include statements describing pain relief, as follows:

(4) *Other allowable statements.* In addition to the required information specified in this paragraph and in paragraphs (a), (b), (c), and (d) of this section, the labeling of the product may contain any of the following statements, provided such statements are neither placed in direct conjunction with information required to appear in the labeling nor occupy labeling space with greater prominence or conspicuousness than the required information.

(i) For products containing any ingredient identified in § 348.12.

(a) (optional: "provides") "penetrating pain relief."

(b) (optional: "provides") "warming pain relief."

(c) (optional: "provides") "cool pain relief."

(ii) [Reserved]

The agency finds that the term "deep strength" is vague and conveys no useful information to consumers. A number of interpretations are possible. The term could refer to the extent of penetration of the drug, the potency or concentration of the drug, or the depth of action of the drug. The "depth" of action is dependent upon the absorption of the drug and not necessarily upon its concentration. Other interpretations are entirely possible. Because this term could be interpreted in various ways, the agency considers the term "deep strength" too confusing and vague and therefore does not propose to include it in this monograph. In addition, the agency has reviewed the references cited by the Panel at 44 FR 69830 (Refs. 1 through 5) in support of its statement that "methyl salicylate acts as a counterirritant for the temporary relief of deep-seated pain" and determined that these references do contain adequate data to establish that counterirritant active ingredients relieve pain distal to the site of application. Despite the Panel's statement, the agency concludes that claims for "relief of deep-seated pain" are not suitable for OTC counterirritants. Deep-seated pain may be caused by a serious condition not amenable to self-diagnosis and treatment. The claim is therefore not included in this monograph.

#### References

- (1) Krantz, J. C., Jr., and C. J. Carr, "Pharmacological Principles of Medical Practice," 6th Ed., The Williams and Wilkins Co., Baltimore, p. 200, 1965.
- (2) Swinyard, E. A., "Demulcents, Emollients, Protectives and Adsorbents, Antiperspirants and Deodorants, Absorbable Hemostatics, Astringents, Irritants, Sclerosing Agents, Caustics, Keratolytics, Antiseborrheics, Melanizing and Demelanizing Agents, Mucolytics, and Certain Enzymes," in "The Pharmacological Basis of Therapeutics," 4th Ed., Edited by L. S. Goodman and A. Gilman, The Macmillan Co., New York, p. 993, 1970.
- (3) Crossland, J., "Lewis's Pharmacology," 4th Ed., E. and S. Livingstone, London, pp. 562-563, 1970.
- (4) Fulton, G. P., E. M. Farber, and A. P. Moreci, "The Mechanism of Action of Rubefacients," *The Journal of Investigative Dermatology*, 33:317-325, 1959.
- (5) DiPalma, J. R., "Drill's Pharmacology in Medicine," 4th Ed., McGraw-Hill Book Co., New York, p. 1036, 1971.

27. One comment disagreed with the recommendation that hydrocortisone be

used for itchy genital and anal areas. The comment was concerned about the potential for absorption of hydrocortisone when used in the anogenital area and contended that the Panel's recommended warning to discontinue use and consult a physician if symptoms persist for more than 7 days will be ignored by many patients, and that frequent and chronic use of hydrocortisone in the genital areas may cause problems such as progression of an infection, dermal atrophy, and striae.

The Panel reached its conclusion that topical hydrocortisone is safe for OTC use in concentrations up to 0.5 percent for itchy genital and anal areas after a careful study of its use on all areas of the body, at a wide range of concentrations, and for prolonged periods of time (44 FR 69817 to 69822). In addition, the Panel found that dermal atrophy and striae are generally associated with the more potent fluorinated corticosteroids and have been reported only rarely for hydrocortisone, and then only after long-term or excessive use (44 FR 69817). Because these conditions can arise with long-term or excessive use, the agency is concerned about the adequacy of the Panel's recommended warning. Consumers may use hydrocortisone in the anogenital area for itching, which may be alleviated after a few days of treatment. If the hydrocortisone is then stopped, the itching may recur within a few days and the consumer may again use hydrocortisone. Consumers may go through several cycles of starting and stopping treatment with hydrocortisone, and the Panel's 7-day warning would be inadequate to warn against such overuse. The agency believes that the warning should emphasize to consumers the need to consult a doctor not only for conditions that do not respond to self-treatment, but also for those that recur after such treatment with hydrocortisone. For this reason, the agency is proposing to revise the Panel's recommended warning as follows: "If condition worsens, or if symptoms persist for more than 7 days or clear up and occur again within a few days, discontinue use of this product and consult a" (select one of the following: "physician" or "doctor").

The agency further believes that hydrocortisone products that bear the indication for external genital itching need to include a warning to inform women not to use the drug in the presence of vaginal discharge. A vaginal discharge may be a symptom of an infection, for which hydrocortisone is not effective and professional treatment is needed. Accordingly, the agency is



proposing the following warning in § 348.50(c)(7): "Do not use if you have a vaginal discharge. Consult a" (select one of the following: "physician" or "doctor").

The Panel recommended in § 348.50(c)(1)(i) that all OTC external analgesic drug products bear the warning "for external use only." The agency believes it is necessary to emphasize that OTC drug products containing hydrocortisone are intended only for external use in the genital and anal areas and that this information should be included in the indications for use for these products. The agency is therefore proposing to change the wording of the indication for hydrocortisone to read: for relief of " \* \* \* external (select one or more of the following: 'genial,' 'feminine,' and 'anal' itching." The term "feminine itching" has been added as an optional labeling term because it is a term that is commonly used and understood by consumers.

As will be discussed in the preamble of the advance notice of proposed rulemaking for OTC vaginal drug products, which will be published in a future issue of the *Federal Register*, three OTC advisory review panels have made recommendations to FDA pertaining to the use of various OTC drugs in and around the vagina.

The Antimicrobial II Panel recommended that certain antifungal drugs currently available only by prescription be considered generally recognized as safe and effective for "treatment of external feminine itching associated with vaginal yeast (candidal) infection." However, the agency dissented on the Panel's recommendation because of its concern about consumer's self-treating itching associated with a vaginal infection (47 FR 12480). While the agency disagrees with the use of OTC drug products to treat vaginal infections, the agency tentatively believes that hydrocortisone can be safely and effectively used OTC to relieve external itching around the vagina. The agency recognizes that consumers cannot identify the underlying causes of such itching, but is aware that hydrocortisone will produce symptomatic relief. If relief is not obtained or the itching recurs, the consumer is advised to discontinue use of the drug and to consult a doctor. The agency will further discuss the OTC use of antifungal drug products for this use in the tentative final monograph for that class of drugs.

In light of the different recommendations from the three panels, previous agency actions, and the comments submitted in response to the advance notice of proposed rulemaking

for OTC antifungal drug products, there appears to be uncertainty regarding the use of OTC drug products for treating the system of external itching around the vagina. The agency is particularly concerned about (1) the ability of a woman to recognize the nature or cause of the itching in order to determine which kind of drug product to select to treat it, e.g., an antipruritic or antifungal for the external areas, including the vulva, and (2) whether one week of self-medicating with an OTC drug product containing hydrocortisone may pose an unacceptable delay in seeking professional attention if the symptom(s) are due to gonorrhea, trichomonas, candida, or other organisms which will not be eradicated by topical therapy with OTC drug products containing hydrocortisone. The agency is tentatively agreeing with the Topical Analgesic Panel that hydrocortisone can be safely used OTC for relief of itching if accompanied by appropriate warnings but is inviting specific comment on this issue, and particularly invites comment from gynecologists, family practitioners, and other health professionals.

28. One comment requested that the Panel's recommended indication for antipruritic ingredients in § 348.50(b) (2) be expanded to allow the general claim "for the relief of itching." The comment argued that there is no scientific basis for limiting the claim to itching due only to minor burns, sunburn, minor cuts, abrasions, insect bites, and minor skin irritations. The comment concluded that the antipruritic properties of the ingredients included in § 348.10(b) provide relief no matter what stimulates the local itching sensation, and consumers should be informed accordingly.

The agency agrees with the comment that products containing antipruritic ingredients should be allowed to use the indication "For the temporary relief itching" without listing examples of causes of itching. Such labeling would be clearly recognizable and meaningful to a consumer who was experiencing itching without knowing the cause. The agency is therefore proposing that products containing antipruritic ingredients may be labeled for itching only or for itching associated with one or more causes. The agency is also proposing the same type of alternative labeling for hydrocortisone products. In addition, in order to improve clarity and to simplify OTC labeling, the agency is proposing to use the word "scrapes" instead of "abrasions" in the proposed indication for antipruritics in § 348.50(b)(2).

Based upon the above discussion, and the discussion in comment 27 above, the

following indications are being proposed in the tentative final monograph as § 348.50(b) (2) and (3):

(2) *For products containing any external analgesic active ingredients identified in § 348.10 (a), (b), and (c).* "For the temporary relief of" (select one of the following: "pain," "itching," or "pain and itching") (which may be followed by: "associated with" (select one or more of the following: "minor burns," "sunburn," "minor cuts," "scrapes," "insect bites," or "minor skin irritations."))

(3) *For products containing any external analgesic active ingredients identified in § 348.10(d).* "For the temporary relief of itching associated with minor skin irritations and rashes" [which may be followed by: "due to" (select one or more of the following: "eczema," "insect bites," "poison ivy, poison oak, or poison sumac," "soaps," "detergents," "cosmetics," "jewelry,") and/or ("and for external" (select one or more of the following: "genital," "feminine," and "anal") "itching."))]

29. Several comments requested that the term "inflammation" be added to the indications for OTC hydrocortisone drug products or that the term "anti-inflammatory" be used as the statement of identity for these products. The comments stated that it is medically inaccurate and incomplete to categorize hydrocortisone only as an antipruritic or external analgesic, because the relief of itching or pain is secondary to its anti-inflammatory action. The comments pointed out that the principal pharmacologic action of hydrocortisone has long been recognized as anti-inflammatory, and consumers should be informed of this activity to allow proper use of the ingredient.

In its review of hydrocortisone, the Panel acknowledged that numerous studies over a 20-year period have demonstrated the effectiveness of topical hydrocortisone preparations as antipruritic (anti-itch) and anti-inflammatory agents and that hydrocortisone preparations are frequently used as anti-inflammatory agents (44 FR 69813-69824). Nevertheless, the Panel recommended that hydrocortisone for OTC use bear labeling related only to its anti-itch activity and recommended an indication statement that specified use for nonserious conditions that the Panel believed consumers could appropriately self-medicate with hydrocortisone.

The statement of identity is intended to communicate to consumers the principal intended action of a drug in terms that are meaningful to the layman. The agency agrees with the Panel that

the principal intended OTC use of hydrocortisone drug products is to relieve itching. As discussed in comment 21 above, the agency is proposing "anti-itch" as the statement of identity for OTC hydrocortisone drug products. Although hydrocortisone does have an anti-inflammatory action, as the comment and the Panel acknowledged, the agency does not believe that the term "anti-inflammatory" should be included in the OTC statement of identity for products containing hydrocortisone. Inclusion of the term "anti-inflammatory" in the statement of identity may suggest to consumers that the product is intended for self-medicating serious conditions that should be treated by a doctor. The term "anti-inflammatory" may be used in the professional labeling of products containing hydrocortisone, as described in the class labeling guideline for topical corticosteroids (Ref. 1).

As mentioned in comment 28 above, the agency believes that the Panel's recommended indication needs to be revised to emphasize the OTC use of hydrocortisone preparations to relieve itching. The agency further believes that "inflammation" could be included as an optional descriptive term in the indication statement for hydrocortisone, so long as it is related to the relief of itching associated with the nonserious conditions included in the recommended indication. Therefore, the agency is proposing the following optional indication to be added as § 348.50(b)(3)(ii) of the tentative final monograph: "For the temporary relief of itching associated with minor skin irritations, inflammation, and rashes due to" (select one or more of the following: "eczema," "insect bites," "poison ivy, poison oak, or poison sumac," "soaps," "detergents," "cosmetics," "jewelry,") (which may be followed by: "and for external" (select one or more of the following: "genital," "feminine," and "anal") "itching.") The agency believes that the above indication will inform consumers about the anti-inflammatory properties of hydrocortisone while limiting its OTC use to specific nonserious conditions and thus help to prevent misuse of hydrocortisone for inflammation associated with infection. Further, the agency believes that the warning proposed as § 348.50(c)(1)(iii), "If condition worsens, or if symptoms persist for more than 7 days or clear up and occur again within a few days, discontinue use of this product and consult a" (select one of the following: "physician" or "doctor,") provides additional protection to consumers against such misuse.

#### Reference

(1) Food and Drug Administration, "Topical Corticosteroids Class Labeling Guideline," Docket No. 81D-0274, Dockets Management Branch.

30. Two comments disagreed with the Panel's warning in § 348.50(c)(1)(iii), which states "If condition worsens, or if symptoms persist for more than 7 days, discontinue use of this product and consult a physician." The comments noted that existing FDA warnings for counterirritants and topical salicylates in 21 CFR 369.20 direct consumers to consult a physician if pain persists for more than 10 days. One comment stated that in light of the excellent safety record of external analgesic products and in the absence of any data to the contrary, the 10-day use limitation should be retained.

The agency agrees with the Panel that 7 days is sufficient time for the consumer to self-treat with external analgesic products before consulting a physician. If symptoms persist after 7 days, there may be an underlying disease or condition that requires a physician's diagnosis and treatment, and continuing to self-treat for more than 7 days may delay proper treatment. Furthermore, prolonged duration of use can increase the incidence of sensitivity and decrease effectiveness of external analgesic ingredients. As stated by the Panel at 44 FR 69781, these ingredients can have a direct irritating effect or may produce sensitization from prolonged or repeated contact with the skin. For example, the Panel pointed out that patients may develop tolerance to the effectiveness of tripeleminamine hydrochloride and diphenhydramine hydrochloride or become sensitive to these drugs after more than 7 days of use (44 FR 69809 and 69839). When the final monograph for external analgesic drug products is published, those parts of § 369.20 covered by the monograph will be deleted.

31. One comment objected to the Panel's recommended warning in § 348.50(c)(2)(ii) for counterirritants, "Do not bandage." The comment argued that it is common practice in athletic training procedures to cover injuries after applying counterirritants either to protect clothing or to increase the stimulation of cutaneous receptors. The comment suggested that a warning such as "Bandage with caution" be substituted for the Panel's warning.

The agency agrees with the comment that it is desirable to protect clothing from stains by covering the application site, but believes that such covering should not be tightly applied. The agency is not aware of any evidence

that the risk of adverse reactions to counterirritants increases when the application site is lightly covered, but is aware that under tight bandaging or occlusive dressing there is an increased risk of irritation, redness, or blistering. The Panel did not provide specific reasons for recommending the warning "Do not bandage" for counterirritants. However, counterirritants are, as the name itself implies, irritating, and occlusion by tight bandaging may increase their absorption through the skin. Therefore, it is proposed in this tentative final monograph that the Panel's recommended warning "Do not bandage" be revised to "Do not bandage tightly." The agency believes that this warning is more helpful to consumers because it provides more specific information and is therefore clearer than the warnings proposed by the comment.

32. One comment requested that the minimum age restriction for use of topical analgesic, anesthetic, and antipruritic ingredients be changed from 2 years to 6 months of age. The comment argued that because the Panel defined adult skin as "skin that is older than 6 months of age" (44 FR 69773), because the effect of occlusion under a diaper can be taken care of by use of an appropriate warning, and because a child under 2 years of age is well able to communicate pain by crying, these ingredients can be used safely on children over 6 months of age. In addition, the comment stated that these products are particularly useful for crawling infants who receive minor scratches, with related discomfort, that do not require a doctor's care.

The agency believes that external analgesic drug products should not be used on children under 2 years of age except as recommended by a physician. Although it is true that by 6 months of age a child's skin is similar to an adult's with regard to drug absorption, there are enough other differences between adults and children under 2 years of age to require different standards of practice in the use of drugs. Children 2 years of age above are just beginning to learn to communicate verbally in expressing their symptoms to a parent. At less than 2 years of age, the infant is more passive and less able to express and localize symptoms. Occlusion from a diaper, from lying on a waterproof mattress, or from body folds touching each other can enhance cutaneous absorption that can result in systemic effects in infants who do not have fully developed drug metabolism systems. Analgesic drugs can also be corrosive to infants' skin under occlusion. Parents could be warned against occlusion from a diaper,

but it would be difficult to warn them adequately against less obvious occlusion. Therefore, the agency agrees with the Panel that limiting use of these products to children 2 years of age or older except under the advice and supervision of a physician is necessary to provide an adequate margin of safety.

## II. The Agency's Tentative Adoption of the Panel's Report

### A. Summary of Ingredient Categories and Testing of Category II and Category III Conditions

1. *Summary of ingredient categories.* The agency has reviewed all the claimed active ingredients submitted to the Panel, as well as other data and information available at this time, and concurs with the Panel's categorization of ingredients except for camphorated metacresol and methapyrilene hydrochloride. (See paragraphs 11 and 15 under "Summary of the Agency's Changes in the Panel's Recommendations" below.) For the convenience of the reader, the following tables are included as summaries of the categorization of active ingredients recommended by the Panel and proposed by the agency.

Analgesic, anesthetic, and antipruritic active ingredients	Panel	Agency
Aspirin.....	III	III
Benzocaine.....	I	I
Benzyl alcohol.....	I	I
Butamben picrate.....	I	I
Camphor.....	I	I
Camphorated metacresol.....	III	I
Chloral hydrate.....	II	II
Chlorobutanol.....	III	III
Cyclomethycaine sulfate.....	III	III
Dibucaine.....	I	I
Dibucaine hydrochloride.....	I	I
Dimethisoquin hydrochloride.....	I	I
Diphenhydramine hydrochloride.....	I	I
Dyclonine hydrochloride.....	I	I
Eugenol.....	III	III
Glycol salicylate.....	III	III
Hexylresorcinol.....	III	III
Hydrocortisone <sup>1</sup> .....	I	I
Hydrocortisone acetate <sup>1</sup> .....	I	I
Juniper tar.....	I	I
Lidocaine.....	I	I
Lidocaine hydrochloride.....	I	I
Menthol.....	I	I
Methapyrilene hydrochloride.....	I	II
Phenol.....	I	I
Phenolate sodium.....	I	I
Pramoxine hydrochloride.....	I	I
Resorcinol.....	I	I
Salicylamide.....	III	III
Tetracaine.....	I	I
Tetracaine hydrochloride.....	I	I
Thymol.....	III	III
Trolamine salicylate <sup>2</sup> .....	III	III
Triphenylamine hydrochloride.....	I	I

<sup>1</sup>Hydrocortisone and hydrocortisone acetate are OTC external analgesics only for use as topical antipruritics.

<sup>2</sup>Identified by the Panel as triethanolamine salicylate.

Counterirritant ingredients	Panel	Agency
Allyl isothiocyanate.....	I	I
Strong ammonia solution <sup>1</sup> .....	I	I
Camphor.....	I	I
Capsaicin.....	I	I
Capsicum.....	I	I

Counterirritant ingredients	Panel	Agency
Capsicum oleoresin.....	I	I
Chloral hydrate.....	I	I
Eucalyptus oil.....	I	I
Histamine dihydrochloride.....	I	I
Menthol.....	I	I
Methyl nicotinate.....	I	I
Methyl salicylate.....	I	I
Turpentine oil.....	I	I

<sup>1</sup>Identified by the Panel as ammonia water, stronger.

2. *Testing of Category II and Category III conditions.* The Panel recommended testing guidelines for external analgesic drug products (44 FR 69857). The agency is offering these guidelines as the Panel's recommendations without adopting them or making any formal comment on them. (See comment 14 above.)

Interested persons may communicate with the agency about the submission of data and information to demonstrate the safety or effectiveness of any external analgesic ingredient or condition included in the review by following the procedures outlined in the agency's policy statement published in the *Federal Register* of September 29, 1981 (46 FR 47740). This policy statement includes procedures for the submission and review of proposed protocols, agency meetings with industry or other interested persons, and agency communications on submitted test data and other information.

### B. Summary of the Agency's Changes in the Panel's Recommendations

FDA has considered the comments and other relevant information and concludes that it will tentatively adopt the Panel's report and recommended monograph with the changes described in FDA's responses to the comments above and with other changes described in the summary below. A summary of the changes made in the Panel's conclusions and recommendations follows.

1. The agency is proposing to include the combination of camphor and menthol in this tentative final monograph in new § 348.20(a)(6). (See comment 12 above.)

2. The agency proposes that 4.7 percent phenol be included in this tentative final monograph when it is combined with 10.8 percent camphor in accordance with § 348.20(a)(4). (See comment 13 above.)

3. The agency proposes changing the term "antipruritic," the Panel's recommended statement of identity for hydrocortisone products, to "antipruritic (anti-itch)," "anti-itch," antipruritic (anti-itch) (*insert dosage form, e.g., cream, lotion, or ointment*)," or "anti-itch (*insert dosage form, e.g., cream, lotion, or ointment*)." (See comment 21 above.)

4. Alternatives to the Panel's recommended statement of identity, "external analgesic," are being proposed in § 348.50(a)(1) as "external analgesic," "topical analgesic," or "pain relieving (*insert dosage form, e.g., cream, lotion, or ointment*)." (See comment 20 above.)

5. The agency proposes that terms such as "fast," "prompt," "swift," "sudden," and "immediate," which were classified by the Panel as Category II, and statements such as "penetrating heat relief" are outside the scope of the OTC drug review because they do not signal any property that is important to the safe and effective use of OTC external analgesic drug products. Claims such as "penetrating pain relief" do describe therapeutically significant performance characteristics of OTC counterirritant active ingredients and are included under a new section, § 348.50(b)(4), "Other allowable statements." (See comment 26 above.)

6. The 7-day warning recommended by the Panel for external analgesic drug products in § 348.50(c)(1)(iii) has been revised and is being proposed as follows in § 348.50(c)(1)(iii): "If condition worsens, or if symptoms persist for more than 7 days or clear up and occur again within a few days, discontinue use of this product and consult a" (select one of the following: "physician" or "doctor"). (See comment 27 above.)

7. The indications for analgesic, anesthetic, and antipruritic ingredients and for counterirritant ingredients are proposed in § 348.50(b) to allow the optional use of terms describing the conditions relieved by these ingredients and to include the general claim "for the relief of itching" for antipruritic ingredients. To improve consumer understanding, the agency proposes deletion of the term "dermatitis" from the indications for hydrocortisone drug products, while it proposes to add "feminine itching." The agency is also proposing an optional indication for hydrocortisone drug products. (See comments 22, 27, 28, and 29 above.)

8. The agency is proposing the following warning in § 348.50(c)(7) for hydrocortisone products that are labeled with the optional indication of external genital or feminine itching: "Do not use if you have a vaginal discharge. Consult a" (select one of the following: "physician" or "doctor"). (See comment 27 above.)

9. To provide clearer and more specific information to consumers, the agency proposes to revise the Panel's recommended warning for counterirritants in § 348.50(c)(2)(ii) to state: "Do not bandage tightly." (See comment 31 above.)

10. The following are agency-initiated changes in the Panel's recommended monograph based on the format and style of recently published monographs:

a. Section 348.10(a) has been redesignated § 348.12, and § 348.10(b) has been redesignated § 348.10.

b. The agency has redesignated proposed Subpart D of the monograph as Subpart C, placing the labeling sections under Subpart C.

c. The definitions sections have been revised to include only those definitions considered necessary for this tentative final monograph. The definitions under age for "infant, child, and adult" and the term "cutaneous sensory receptor" were deleted because they are not used in the labeling proposed in the tentative final monograph. The definitions for "topical analgesic" and "topical anesthetic" were combined under a new definition "analgesic, anesthetic" because the actions of a topical analgesic and a topical anesthetic are similar, and no distinction is made in the proposed indications section. (See comment 24 above.) A definition for camphorated metacresol has been added because the complex has been included in the monograph. (See comment 13 above.)

d. The subgroups of active ingredients listed in §§ 348.10 and 348.12 have been identified with headings that are in accordance with the Panel's recommendations.

e. In an effort to simplify OTC drug labeling, the agency proposed in a number of tentative final monographs to substitute the word "doctor" for "physician" in OTC drug monographs on the basis that the word "doctor" is more commonly used and better understood by consumers. Based on comments received to these proposals, the agency has determined that final monographs and other applicable OTC drug regulations will give manufacturers the option of using either the word "physician" or the word "doctor." This tentative final monograph proposes that option.

f. The Panel's recommended warning in § 348.50(c)(1)(iv) has been deleted, and the following statement has been included under the directions in proposed § 348.50(d): "Children under 2 years of age: consult a" (select one of the following: "physician" or "doctor").

11. The agency has reclassified methapyrilene hydrochloride from Category I to Category II as an OTC external analgesic ingredient. A tentative final rule for nighttime sleep-aids, published in the *Federal Register* of June 13, 1978 (43 FR 25544), proposed to place methapyrilene in Category II because of preliminary studies implicating this drug as a carcinogen, or

a carcinogen synergist with nitrates, in rats. However, at that time, the studies were too preliminary to support a definitive finding of carcinogenicity for methapyrilene itself that would necessitate its immediate removal from all products in the OTC drug market.

On May 1, 1979, the agency received an interim report from the National Cancer Institute (NCI) regarding carcinogenicity studies performed with methapyrilene at the Frederick Cancer Research Center. The results of these studies have been published by Lijinsky, Reuber, and Blackwell (Ref. 1). The NIC interim report stated that methapyrilene is a potent carcinogen in rats and must be considered a potential carcinogen in man. FDA reviewed this report and concurred with its conclusions. Industry agreed to a request from the agency to recall all methapyrilene-containing products from the market voluntarily. On June 15, 1979, FDA issued a recall letter to all manufacturers holding an approved new drug application (NDA) for products containing methapyrilene. This voluntary recall has virtually eliminated drug products containing methapyrilene from the marketplace. All human drugs containing methapyrilene for systemic or topical use are currently regarded as new drugs within the meaning of section 201(p) of the act (21 U.S.C. 321(p) and are subject to regulatory action under sections 502 and 505 of the act (21 U.S.C. 352 and 355).

#### Reference

(1) Lijinsky, W., M. D. Reuber, and B. N. Blackwell, "Liver Tumors Induced in Rats by Chronic Oral Administration of the Common Antihistamine Methapyrilene Hydrochloride," *Science*, 209:817-819, 1980.

12. Thymol has been deleted from recommended § 348.20(b)(1)(ii) as an ingredient for inclusion in combinations of external analgesic active ingredients. The Panel classified thymol as Category III. Thymol was inadvertently included in the Panel's recommended monograph. The agency tentatively concurs with the Panel's Category III classification of thymol and is correcting this error in the monograph.

13. The agency is proposing to lower the upper concentration limit for phenol and phenolate sodium from 2 percent to 1.5 percent in external analgesic drug products. Monographs for other OTC drug products for external use limit the concentration of phenol to 1.5 percent. For example, the tentative final monograph for OTC Antimicrobial I drug products classified concentrations of phenol exceeding 1.5 percent as Category II for safety when used in antimicrobial soaps, patient preoperative skin preparations, health-

care personnel handwashes, skin antiseptics, skin wound cleansers, skin wound products, and surgical hand scrubs. The agency stated in this document that the use of phenol in concentrations of 2 percent or more has caused serious hazards, including gangrene, mummification, and even coma (January 6, 1978; 43 FR 1227). The Panel on OTC Dentifrices and Dental Care Drug Products also placed phenol in concentrations above 1.5 percent in Category II as an oral mucosal analgesic (May 25, 1982; 47 FR 22739). The upper concentration limit of phenolate sodium, the sodium salt of phenol, is also being lowered to 1.5 percent so that it has the same limit as phenol.

An exception to this upper limit of 1.5 percent phenol has been made for phenol when combined with camphor. The agency has proposed that 4.7 percent phenol may be safely combined with 10.8 percent camphor. (See comment 13 above.)

14. The agency proposes that the warning recommended by the Panel in § 348.50(c)(5) for products containing phenol pertains also to products containing phenolate sodium and camphorated metacresol, and has amended the tentative final monograph accordingly in § 348.50(c)(5). The agency notes that the Panel used slightly different wording in the warnings it recommended in § 348.50(c)(3), (5), and (6) to convey the same message. To prevent consumer confusion, the agency has proposed the same wording, where applicable, in the warning statements in these sections. The language in these warnings is taken from a similar warning that the agency proposed for topical antimicrobial drug products in the *Federal Register* of July 9, 1982 (47 FR 29986).

15. The agency is proposing to classify camphorated metacresol as Category I for safety and effectiveness and is including a definition of camphorated metacresol in § 348.3(b)—(See comment 13 above.)

16. For ease of understanding by consumers, the agency proposes to revise the warning recommended by the Panel in § 348.50(c)(3)(ii) as follows: "This product stains skin and clothing yellow."

The agency advises that those parts of §§ 310.201(a) (19) and (23), 369.20 and 369.21 applicable to external analgesic drug products will be revoked at the time that this monograph becomes effective.

The agency has examined the economic consequences of this proposed rulemaking and has determined that it does not require either a Regulatory

Impact Analysis, as specified in Executive Order 12291, or a Regulatory Flexibility Analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96-354).

Some external analgesic drug products may have to be reformulated to delete nonmonograph ingredients; however, there are a number of Category I ingredients available for reformulation. The agency believes that minimal testing of nonmonograph ingredients will be done because of the availability of other ingredients for reformulation. Manufacturers will have up to 12 months to revise their product labeling. In most cases, this will be done at the next printing so that minimal costs should be incurred. Thus, the impact of the proposed rule, if implemented, appears to be minimal. Therefore, the agency concludes that the proposed rule is not a major rule as defined in Executive Order 12291. Further, the agency certifies that the proposed rule, if implemented, will not have a significant economic impact on a substantial number of small entities as defined in the Regulatory Flexibility Act.

The agency invites public comment regarding any substantial or significant economic impact that this rulemaking would have on OTC external analgesic drug products. Types of impact may include, but are not limited to, costs associated with product testing, relabeling, repackaging, or reformulating. Comments regarding the impact of this rulemaking on OTC external analgesic drug products should be accompanied by appropriate documentation. Because the agency has not previously invited specific comment on the economic impact of the OTC drug review on external analgesic drug products, a period of 120 days from the date of publication of this proposed rulemaking in the Federal Register will be provided for comments on this subject to be developed and submitted. The agency will evaluate any comments and supporting data that are received and will reassess the economic impact of this rulemaking in the preamble to the final rule.

The agency has carefully considered the potential environmental effects of this proposal and has concluded that the action will not have a significant impact on the human environment and that an environmental impact statement therefore will not be prepared. The agency's finding of no significant impact, and the evidence supporting this finding, is contained in an environmental assessment (under 21 CFR 25.31, proposed in the Federal Register of December 11, 1979; 44 FR 71742), which

may be seen in the Dockets Management Branch, Food and Drug Administration.

#### List of Subjects in 21 CFR Part 348

OTC drugs: External analgesics.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 201(p), 502, 505, 701, 52 Stat. 1041-1042 as amended, 1050-1053 as amended, 1055-1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371)), and the Administrative Procedure Act (secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704)), and under 21 CFR 5.11 as revised (see 47 FR 16010; April 14, 1982)), it is proposed that Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations be amended by adding new Part 348 to read as follows:

### PART 348—EXTERNAL ANALGESIC DRUG PRODUCTS FOR OVER-THE-COUNTER HUMAN USE

#### Subpart A—General Provisions

Sec.

348.1 Scope.

348.3 Definitions.

#### Subpart B—External Analgesic Active Ingredients

348.10 Analgesic, anesthetic, and antipruritic active ingredients.

348.12 Counterirritant active ingredients.

348.20 Permitted combinations of active ingredients.

#### Subpart C—Labeling

348.50 Labeling of external analgesic drug products.

Authority: Secs. 201 (p), 501, 502, 505, 701, 52 Stat. 1041-1042 as amended, 1050-1053 as amended, 1055-1056 as amended by 70 Stat. 919 and 72 Stat. 948 (21 U.S.C. 321(p), 352, 355, 371); secs. 4, 5, and 10, 60 Stat. 238 and 243 as amended (5 U.S.C. 553, 554, 702, 703, 704).

#### Subpart A—General Provisions

##### § 348.1 Scope.

(a) An over-the-counter external analgesic drug product in a form suitable for topical administration is generally recognized as safe and effective and is not misbranded if it meets each condition in this part and each general condition established in § 330.1.

(b) References in this part to regulatory sections of the Code of Federal Regulations are to Chapter I of Title 21 unless otherwise noted.

##### § 348.3 Definitions.

As used in this part:

(a) *Analgesic, anesthetic*. A topically (externally) applied drug that relieves pain by depressing cutaneous sensory receptors.

(b) *Antipruritic*. A topically (externally) applied drug that relieves itching by depressing cutaneous sensory receptors.

(c) *Camphorated metacresol*. A complex consisting of camphor and metacresol combined in a ratio of 3 parts camphor to 1 part metacresol.

(d) *Counterirritant*. A topically (externally) applied drug that causes irritation or mild inflammation of the skin for the purpose of relieving pain in muscles, joints, or viscera distal to the site of application by stimulating cutaneous sensory receptors.

(e) *External analgesic*. A topically (externally) applied drug that has a topical analgesic, anesthetic, or antipruritic effect by depressing cutaneous sensory receptors, or that has a topical counterirritant effect by stimulating cutaneous sensory receptors.

#### Subpart B—Active Ingredients

##### § 348.10 Analgesic, anesthetic, and antipruritic active ingredients.

The active ingredients of the product consist of any of the following, within the established concentration for each ingredient:

(a) *Amine and "caine"-type local anesthetics*.

- (1) Bensocaine 5 to 20 percent.
- (2) Butamben picrate 1 percent.
- (3) Dibucaine 0.25 to 1 percent.
- (4) Dibucaine hydrochloride 0.25 to 1 percent.
- (5) Dimethisoquin hydrochloride 0.3 to 0.5 percent.
- (6) Dyclonine hydrochloride 0.5 to 1 percent.
- (7) Lidocaine 0.5 to 4 percent.
- (8) Lidocaine hydrochloride 0.5 to 4 percent.
- (9) Pramoxine hydrochloride 0.5 to 1 percent.
- (10) Tetracaine 1 to 2 percent.
- (11) Tetracaine hydrochloride 1 to 2 percent.

(b) *Alcohols and ketones*.

- (1) Benzyl alcohol 10 to 33 percent.
- (2) Camphor 0.1 to 3 percent.
- (3) Camphor 3 to 10.8 percent when combined with phenol in accordance with § 348.20(a)(4).
- (4) Camphorated metacresol (camphor 3 to 10.8 percent and metacresol 1 to 3.8 percent).
- (5) Juniper tar 1 to 5 percent.
- (6) Menthol 0.1 to 1 percent.
- (7) Phenol 0.5 to 1.5 percent.
- (8) Phenol 4.7 percent when combined with camphor in accordance with § 348.20(a)(4).
- (9) Phenolate sodium 0.5 to 1.5 percent.
- (10) Resorcinol 0.5 to 3 percent.

(c) *Antihistamines.*

(1) Diphenhydramine hydrochloride 1 to 2 percent.

(2) Tripeleminamine hydrochloride 0.5 to 2 percent.

(d) *Hydrocortisone preparations.*

(1) Hydrocortisone 0.25 to 0.5 percent.

(2) Hydrocortisone acetate 0.25 to 0.5 percent.

**§ 348.12 Counterirritant active ingredients.**

The active ingredients of the product consist of any of the following within the established concentration for each ingredient:

(a) *Irritants that produce redness—*

(1) Allyl isothiocyanate 0.5 to 5 percent.

(2) Strong ammonia solution, diluted to contain 1 to 2.5 percent ammonia.

(3) Methyl salicylate 10 to 60 percent.

(4) Turpentine oil 6 to 50 percent.

(b) *Irritants that produce cooling*

*sensation.*—(1) Camphor exceeding 3 percent to 11 percent.

(2) Menthol 1.25 to 16 percent.

(c) *Irritants that produce*

*vasodilation.*—(1) Histamine dihydrochloride 0.025 to 0.10 percent.

(2) Methyl nicotinate 0.25 to 1 percent.

(d) *Irritants that do not produce redness.*—(1) Capsaicin 0.025 to 0.25 percent.

(2) Capsicum containing 0.025 to 0.25 percent capsaicin.

(3) Capsicum oleoresin containing 0.025 to 0.25 percent capsaicin.

**§ 348.20 Permitted combinations of active ingredients.**

(a) *Combinations of external analgesic active ingredients.*—(1) Any ingredient identified in § 348.10(a) may be combined with any ingredient identified in § 348.10(b).

(2) Any ingredient identified in § 348.10(b) may be combined with any ingredient in § 348.10(c).

(3) Any ingredient identified in § 348.10(b)(1), (5), (7), (9), and (10) may be combined with camphor and menthol identified in § 348.10(b)(2) and (6).

(4) Camphor and phenol identified in § 348.10(b)(3) and (8) may be combined in a light mineral oil, USP vehicle.

(5) Any two, three, or four ingredients identified in § 348.12 may be combined provided that the combination contains no more than one active ingredient from each group identified in § 348.12(a), (b), (c), and (d).

(6) Camphor identified in § 348.12(b)(1) may be combined with menthol identified in § 348.12(b)(2).

(7) Camphor and menthol identified in § 348.20(a)(6) may be combined with any one, two, or three ingredients identified in § 348.12 provided the combination contains no more than one ingredient from each group identified in § 348.12(a), (c), and (d).

(b) *Combinations of external analgesic active ingredients and other active ingredients.*—(1) Any ingredient identified in § 348.10(a), (b), or (c), or any combination identified in paragraph (a)(i), (2), or (3) of this section may be combined with any generally recognized safe and effective skin protectant active ingredient or skin protectant combination identified in Part 347 provided the product is labeled for the concurrent symptoms.

(2) Any ingredient identified in § 348.10(a), (b), or (c) or any combination identified in paragraph (a)(1), (2), or (3) of this section may be combined with any generally recognized safe and effective topical antimicrobial active ingredient or topical antimicrobial combination identified in Part 333, Subpart A, provided the product is labeled for the concurrent symptoms.

**Subpart C—Labeling****§ 348.50 Labeling of external analgesic drug products**

(a) *Statement of identity.* The labeling of the product contains the established name of the drug, if any, and identifies the product as follows:

(1) *For products containing any ingredient identified in § 348.10(a), (b), and (c) and § 348.12.* The labeling identifies the product as an "external analgesic," "topical analgesic," or "pain relieving (*insert dosage form, e.g., cream, lotion, or ointment*)."

(2) *For products containing hydrocortisone or hydrocortisone acetate identified in § 348.10(d).* The labeling identifies the products as "antipruritic (anti-itch)," "anti-itch," "antipruritic (anti-itch) (*insert dosage form, e.g., cream, lotion, or ointment*)."

(b) *Indications.* The labeling of the product contains a statement of the indications under the heading "Indication(s)" that is limited to the following:

(1) *For products containing any external analgesic active ingredients identified in § 348.12.* "For the temporary relief of minor aches and pains of muscles and joints" [which may be followed by: "associated with" (select one or more of the following: "simple backache," "arthritis," "sprains," "bruises," and "sprains.")]

(2) *For products containing any external analgesic active ingredients identified in § 348.10(a), (b), and (c).* "For the temporary relief of" (select one of the following: "pain," "itching," or "pain and itching") (which may be followed by: "associated with" (select one or

more of the following: "minor burns," "sunburn," "minor cuts," "scrapes," "insect bites," or "minor skin irritations."))

(3) *For products containing any external analgesic active ingredients identified in § 348.10(d).* The labeling of the product contains one of the following indications: (i) "For the temporary relief of itching associated with minor skin irritations and rashes" [which may be followed by: "due to" (select one or more of the following: "eczema," "insect bites," "poison ivy, poison oak, or poison sumac," "soaps," "detergents," "cosmetics," "jewelry,") and/or ("and for external" (select one or more of the following: "genital," "feminine," and "anal") "itching.")]

(ii) "For the temporary relief of itching associated with minor skin irritations, inflammation, and rashes due to" (select one or more of the following: "eczema," "insect bites," "poison ivy, poison oak, poison sumac," "soaps," "detergents," "cosmetics," and "jewelry") (which may be followed by: "and for external" (select one or more of the following: "genital," "feminine," and "anal") "itching.")

(4) *Other allowable statements.* In addition to the required information specified in this paragraph and in paragraphs (a), (b), (c), and (d) of this section, the labeling of the product may contain any of the following statements, as appropriate for the product's formulation, provided such statements are neither placed in direct conjunction with information required to appear in the labeling nor occupy labeling space with greater prominence or conspicuousness than the required information.

(i) *For products containing any ingredient identified in § 348.12.*

(a) (optional: "provides") "penetrating pain relief."

(b) (optional: "provides") "warming pain relief."

(c) (optional: "provides") "cooling pain relief."

(ii) [Reserved]

(c) *Warnings.* The labeling of the product contains the following statements under the heading "Warnings."

(1) *For products containing any external analgesic active ingredient identified in §§ 348.10 and 348.12.* (i) "For external use only."

(ii) "Avoid contact with the eyes."

(iii) "If condition worsens, or if symptoms persist for more than 7 days or clear up and occur again within a few days, discontinue use of this product and consult a" (select one of the following: "physician" or "doctor").



(2) *For products containing any external analgesic active ingredient identified in § 348.12.* (i) "Do not apply to wounds or damaged skin."

(ii) "Do not bandage tightly."

(3) *For products containing butamben picrate identified in § 348.10(a)(2).* (i) "Do not apply over large areas of the body."

(ii) "This product stains skin and clothing yellow."

(4) *For products containing any external analgesic active ingredient identified in § 348.10(a)(3), (4), (7), (8), (10), and (11).* "Do not use in large quantities, particularly over raw surfaces or blistered areas."

(5) *For products containing camphorated metacresol identified in § 348.10(b)(4), phenol identified in § 348.10(b)(7) and (8), and phenolate sodium identified in § 348.10(b)(9).* "Do not apply over large areas of the body or bandage."

(6) *For products containing resorcinol identified in § 348.10(b)(10).* "Do not apply over large areas of the body."

(7) *For products containing hydrocortisone preparations identified in § 348.10(d) (1) and (2) that are labeled with the indications " \* \* \* for external genital itching," or " \* \* \* for external feminine itching."* "Do not use if you have a vaginal discharge. Consult a" (select one of the following: "physician" or "doctor").

(d) *Directions.* The labeling of the product contains the following statement under the heading

"Directions": *Adults and children 2 years of age and older:* Apply to affected area not more than 3 to 4 times daily. Children under 2 years of age: consult a (select one of the following: physician or doctor).

Interested persons may, on or before April 11, 1983 submit to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, written comments, objections, or requests for oral hearing before the Commissioner on the proposed regulation. A request for an oral hearing must specify points to be covered and time requested. Written comments on the agency's economic impact determination may be submitted on or before June 8, 1983. Three copies of all comments, objections, and requests are to be submitted, except that individuals may submit one copy. Comments, objections, and requests are to be identified with the docket number found in brackets in the heading of this document and may be accompanied by a supporting memorandum or brief. Comments, objections, and requests may be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday. Any scheduled oral hearing will be announced in the **Federal Register**.

Interested persons, on or before February 8, 1984 may also submit in writing new data demonstrating the safety and effectiveness of those conditions not classified in Category I. Written comments on the new data may

be submitted on or before April 9, 1984. These dates are consistent with the time periods specified in the agency's final rule revising the procedural regulations for reviewing and classifying OTC drugs, published in the **Federal Register** of September 29, 1981 (46 FR 47730). Three copies of all data and comments on the data are to be submitted, except that individuals may submit one copy, and all data and comments are to be identified with the docket number found in brackets in the heading of this document. Data and comments should be addressed to the Dockets Management Branch (HFA-305) (address above). Received data and comments may also be seen in the above office between 9 a.m. and 4 p.m., Monday through Friday.

In establishing a final monograph, the agency will ordinarily consider only data submitted prior to the closing of the administrative record on April 9, 1984. Data submitted after the closing of the administrative record will be reviewed by the agency only after a final monograph is published in the **Federal Register** unless the Commissioner finds good cause has been shown that warrants earlier consideration.

Dated: January 19, 1983.

Arthur Hull Hayes, Jr.,  
Commissioner of Food and Drugs.

Richard S. Schweiker,  
Secretary of Health and Human Services.

[FR Doc. 83-3217 Filed 2-7-83; 8:45 am]

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**Tuesday  
February 8, 1983**

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**Part III**

**Environmental  
Protection Agency**

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**Hazardous Waste Permit Program;  
Standards Applicable to Owners and  
Operators of Hazardous Waste  
Management Facilities; Proposed Rule**

# ENVIRONMENTAL PROTECTION AGENCY

## 40 CFR Parts 122, 123 and 264

[SW FRL 2039-2]

### Hazardous Waste Management System; the Hazardous Waste Permit Program; Standards Applicable to Owners and Operators of Hazardous Waste Management Facilities

**AGENCY:** Environmental Protection Agency.

**ACTION:** Proposed rule.

**SUMMARY:** On February 26, 1980 and May 19, 1980, the Environmental Protection Agency (EPA) published regulations which established a system to manage hazardous waste. Those regulations provide that permits issued by EPA (and States with authorization to issue permits under the Resource Conservation and Recovery Act (RCRA) for hazardous waste treatment, storage and disposal facilities will be effective for a fixed term not to exceed 10 years. During the fixed term, EPA and authorized States have limited opportunities for reopening a permit to make changes in permit conditions.

EPA is today proposing to amend the regulations to provide that RCRA permits will be effective for the designated operating life of each facility, and the period of post-closure care for land disposal facilities. Under this proposal, EPA and authorized States would have increased opportunities for reopening permits during their terms. EPA is proposing this change in an effort to streamline the RCRA permitting procedure, reduce paperwork, and to respond to settlement negotiations in a lawsuit involving the RCRA regulations.

EPA anticipates that protection of human health and the environment would not be affected by this section. EPA also estimates that this action would result in a savings to the regulated community of approximately \$88.5 million if EPA promulgates this rule and if States with authorization to issue RCRA permits elect to issue those permits effective for the designed operating life of each facility plus the post-closure period.

**DATES:** EPA will accept public comments on the proposed amendment until April 11, 1983.

**ADDRESSES:** Comments should be addressed to the Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, Washington, D.C. 20460. Communications should identify the

regulatory docket number as "Section 122.9—Duration of Permits".

The public docket for this proposed rule is located in Room S-269C, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C., and is available for viewing from 9:00 a.m. to 4:00 p.m. Monday through Friday excluding holidays.

**FOR FURTHER INFORMATION CONTACT:** Amy Mills, Office of Solid Waste (WH-563), U.S. Environmental Protection Agency, Washington, D.C. 20460, or call (202) 382-4755, or the RCRA Hotline at (800) 424-9346 or (202) 382-3000.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

On February 26, 1980 and May 19, 1980, EPA promulgated regulations pursuant to the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 (RCRA), as amended, 42 U.S.C. 6901 *et seq.* The regulations establish a system to manage hazardous waste, and include provisions under which EPA issues permits to owners or operators of facilities that treat, store or dispose of hazardous waste (40 CFR Part 122, 45 FR 33418).<sup>1</sup> Section 122.9 of those regulations specifies that permits issued to hazardous waste management facilities will be effective for a fixed term of 10 years or less. At the end of each permit term, the permittee must apply for and receive a new permit if he plans to continue his operation. The purpose of this requirement is to assure changes in regulations or available technology are integrated into permits on a periodic basis.

The May 19 rule also contains a provision which gives EPA the opportunity to revise permit conditions during the term of the permit (§ 122.15). For most of the allowable causes for permit modifications, EPA may initiate a change with or without the consent of the permittee (§ 122.15(a) (1), (2), and (5) and 122.15(b)). However, in an attempt to provide permittees with greater certainty during the terms of their permits, the May 19 regulations limited the cause for permit modifications resulting from changes to EPA regulations to instances when

modification is requested by the permittee (§ 122.15(a)(3)).

EPA has re-examined the maximum 10-year permit term and its implications for both the regulated community and the Agency. The subject arose in recent negotiations in a lawsuit involving the consolidated permit regulations. (*NRDC v EPA*, No. 80-1607 and consolidated cases, D.C. Cir., filed June 2, 1980).<sup>2</sup> The petitioners in that case claim that the current regulations unreasonably require EPA to repeatedly review an entire facility's operation every 10 years or less, and reopen and re-evaluate all of the issues which were resolved when the initial permit was issued. Some facilities are designed to operate 30 years or more; thus, under the current regulations an entire facility may be re-evaluated three or more times during its operating life. These extensive re-evaluations would proceed regardless of whether there had been any substantive changes in the facility's design or operation, or in the regulations on which its initial permit had been based.

The petitioners further claim that repeating the permit application process every 10 years or less can lose a significant burden to the regulated community. First, there can be a substantial monetary burden associated with the extensive paperwork involved in applying for a permit. Second, the 10-year permit presents disadvantages to the facility owner who may plan to operate for more than 10 years but can only obtain approval for his facility for 10 years at a time.

EPA agrees that the current limit to permit duration can pose certain disadvantages to the regulated community. The Agency also finds that the procedures for issuing permits, i.e., reviewing each permit application, preparing a draft permit, providing an opportunity for public hearing, and preparing a final permit, can be very time-consuming and resource-intensive for the Agency. Under the current regulations, EPA would have to repeat these procedures at least once every 10 years for each facility.

EPA wishes to avoid the unnecessary expiration and reissuance of permits at arbitrary intervals of 10 years or less and the attendant costs and paperwork burdens. At the same time, the Agency believes it must maintain some oversight of the operation of a facility during the term of its permit. Therefore, EPA is today proposing an approach which

<sup>1</sup> The RCRA permitting requirements are contained in EPA's consolidated permit regulations, originally promulgated on May 19, 1980 and codified in 40 CFR Parts 122-124. These regulations have been continuously supplemented and amended. The most important amendments occurred on January 12, 1981, when EPA promulgated permitting regulations for storage and treatment facilities (48 FR 2802); on January 23, 1981, when EPA promulgated permitting regulations for incinerators (46 FR 7666); and July 26, 1982, when EPA promulgated permitting regulations for land disposal facilities (47 FR 32274).

<sup>2</sup> For further explanation of the procedural aspects of the *NRDC v EPA* suit, see the preamble to the technical amendments to 40 CFR Parts 122 and 124 in the April 8, 1982 *Federal Register* (47 FR 15304).

accomplishes both goals and which also would resolve the issue to the satisfaction of the NRDC petitioners.

## II. Lifetime Permits

Rather than issuing permits effective for up to 10 years, EPA is today proposing to issue "lifetime" permits, i.e., permits effective for the designed operating life of each facility, and for the post-closure care period and ground-water monitoring compliance period for land disposal facilities. The advantage to this approach is that a permit need only be issued once for a facility. A permit would be issued for less than the designed operating life of a facility only if the permit applicant so requests. When and if this system goes into effect, the initial permit for a facility currently operating with interim status would be written to cover the remainder of the facility's designed operating life, as well as the post-closure care period and ground-water monitoring compliance period for land disposal facilities. For facilities which have already been issued a permit, the next permit would be written to cover the remainder of the facility's designed operating life (and the post-closure care period and ground-water monitoring compliance period), or the owner or operator could request a modification of his current permit.<sup>3</sup>

### A. Designed Operating Life

The designed operating life of a facility is the period of time, estimated by the owner or operator and approved by EPA, for which the facility is designed to operate, and during which operation is expected to continue. It is the same estimate used to establish the date of final closure in a facility's closure plan, and to establish a pay-in period for closure and post-closure trust funds.

Designed operating life can be determined by considering several factors. For instance, the manufacturer's warranty or estimated service life of the materials used in the construction of the facility may affect designed operating life. Consideration must also be given to the weakening effect of some hazardous wastes on the materials of construction, particularly in the case of corrosive wastes. The volume of waste to be handled may also contribute to the rate of wear. The age of the construction materials should also be considered, especially when a permit is sought for an existing facility operating with partially worn equipment.

The designed operating life may also vary with the type of processes used at the facility. Landfills and surface impoundments may have predictable fill rates; therefore the designed operating life may simply be determined by estimating when the facility's capacity will be reached. On the other hand, the owner or operator of a storage facility with tanks may plan to replace each tank as its service life expires (e.g., after 20 or 30 years) but continue the general operation of the facility for a total of 60 years.

In some cases, the operating life of the facility may be underestimated when the permit is written, and the permit may therefore expire before the facility is ready for closure. The owner or operator may then seek modification or reissuance of his permit.

Some facilities may contain two or more units which have designed operating lives of differing lengths. For instance, one facility may contain a storage tank which is designed to operate for 20 years, and a container storage area designed to operate for 5 years. In that case, EPA could issue a permit effective for the designed operating life of the unit expected to be in operation the longest (i.e., the tank), but condition the permit so that a second unit (i.e., the container storage area) may be operated only until its designed operating life expires. The Agency invites comments from the public on how to handle situations involving multiple units with different designed operating lives.

Some owners and operators of hazardous waste management facilities may have difficulty estimating the operating life of their facilities. Particularly in the case of a new facility, the owner or operator may plan to continue operation indefinitely. In anticipation of such instances, it may be appropriate for EPA to set an upper limit or cap on the duration of all RCRA permits of, for example, 50 or 70 years. The Agency requests comments and suggestions on whether a cap should be established in this rule for "lifetime" permits, and if so, what length of time would be reasonable.

### B. Post-Closure Period and Ground-Water Monitoring Compliance Period

EPA is proposing that the "lifetime" permit cover the period of post-closure care and compliance with ground-water monitoring standards for land disposal facilities. The post-closure care period for a land disposal facility is generally 30 years. (See § 264.117.) The permit for any facility that includes a land disposal unit, e.g., a landfill or disposal surface

impoundment, would be issued for the term of the designed operating life of the facility plus the post-closure period. The permit conditions applicable after the end of the designed operating life of the facility would be those relating to post-closure care of the facility.

In the *Federal Register* of July 26, 1982, EPA published permitting Standards for land disposal facilities that impose post-closure responsibilities concerning ground-water protection (47 FR 32349). Compliance with the ground-water protection standards in those regulations will require an owner or operator to conduct ground-water monitoring and, in some cases, take corrective action measures to remedy ground-water contamination after facility closure. Accordingly, the duration of a permit for a land disposal facility would extend as long as would be necessary to assure compliance with the ground-water protection standards in the land disposal regulations.

### III. Increased Opportunities for Modifications to Permits

Today's proposal also broadens the set of circumstances under which a permit may be modified during its term. As discussed above, § 122.15 currently provides that a permit can be modified during its term to conform to newly promulgated regulations or judicial decisions only if the permittee requests such a modification. EPA is proposing to amend § 122.15(a)(3) to allow the Agency, as well as the permittee, to initiate a permit modification when the standards or regulations on which the permit is based have been changed due to either promulgation of new regulations or a judicial decision. If EPA promulgated the lifetime permit rule but did not make this corresponding change to § 122.15, EPA would have no mechanism for bringing an existing facility into compliance with regulations promulgated after the issuance of a permit. However, with this change to § 122.15, as the current standards for hazardous waste management facilities are changed in the future, the Agency would be able to incorporate those new standards into existing permits when appropriate.

Under today's proposal, EPA would have the ability to initiate modifications to a permit if new standards are promulgated or a judicial decision is made which affects the basis of the permit. This may raise concerns among the regulated community as to whether existing facilities will be required to undergo extensive retrofitting in the future, as EPA amends its Part 264 regulations. Section 3004 of RCRA

<sup>3</sup> A permit could be modified for this cause under § 122.15(a)(3) because the standards on which the permit was based were changed by promulgation of new standards after the permit was issued.

directs EPA to distinguish, where appropriate, between new and existing facilities when promulgating regulations applicable to hazardous waste management facilities. Accordingly, EPA will specify the applicability of future standards to either new or existing facilities or both in proposed and final regulations. If today's proposed rule is promulgated in final form, EPA will consider initiating modifications to an existing permit when standards for existing facilities are promulgated which affect the basis of that permit.

Today's proposed rule would also amend § 122.15(a)(7) to allow for modification of a permit if the permit fails to include any applicable requirement under RCRA which is in effect prior to the date of permit issuance. This amendment would ensure that if a regulatory requirement is inadvertently overlooked in the preparation of a permit, the permit can be reopened and modified to reflect that requirement. Under the present permitting system, such an error in a permit can only be corrected when the permit is periodically reissued. With lifetime permits, however, there would be no such periodic opportunity for making a correction, and some permits may be effective for periods much longer than 10 years (the current maximum). Therefore, the Agency proposes to allow for corrections to a permit during its effective term. A modification under this provision could be initiated by the permittee or the Agency.<sup>4</sup>

EPA intends to make a second change to § 122.15(a)(7) to correct a typographical error in § 122.15(a)(7)(ii) made in the January 12, 1981 Federal Register (46 FR 2889). As printed on January 12, that section provides that the Director may make certain modifications to permits when he determines that they are "unwarranted". This word obviously should have been "warranted" (46 FR 2841). EPA will correct this error either when today's amendments are published in final form or in a separate technical amendment.

#### IV. Regulatory Effect of Lifetime Permit Proposal

The proposed change to permit duration would limit EPA's ability to issue permits for less than the designed operating life of a facility, and would reduce the ability of the public to periodically scrutinize aspects of a facility's operation. However, this loss would be counter-balanced by the

Agency's increased ability to reopen permits under the proposed changes to § 122.15(a)(3) and § 122.15(a)(7). The Agency also would continue to have authority to initiate permit modifications if there are alterations to a facility (§ 122.15(a)(1)) or if the Director receives information pertinent to the facility which was not available when the permit was issued (§ 122.15(a)(2)). Thus, EPA would have several avenues for effecting necessary changes to the operation of a facility during the duration of its permit.

In addition, EPA would still have the ability to terminate a facility's permit for cause under § 122.16. Also, EPA continues to have authority under Section 7003 of RCRA to bring suit against any owner or operator whose facility "may present an imminent and substantial endangerment to health or the environment." EPA has additional authority under Section 3013 of RCRA to require an owner or operator to conduct monitoring, testing, and analysis when the presence or release of waste "may present a substantial hazard to human health or the environment." With these safeguards, the Agency believes it will have sufficient means to protect human health and the environment while streamlining the permit program.

#### Financial Requirements

Conforming amendments to the financial requirements in §§ 264.143(a)(3) and 264.145(a)(3) are also being proposed today. These amendments would modify the maximum pay-in period for closure and post-closure trust funds for permitted facilities to reflect the changes in permit duration being proposed today.

Under the current regulations, the maximum pay-in period for trust funds during interim status is 20 years or the remaining operating life as estimated in the closure plan,<sup>5</sup> whichever period is shorter. The maximum pay-in period for permitted facilities is currently the term of the initial permit (i.e., up to 10 years), or the remaining operating life as estimated in the closure plan, whichever period is shorter. Under the proposed amendments, the pay-in period for permitted facilities would be the term of the initial RCRA permit, or the remaining operating life of the facility as estimated in the closure plan, or 20 years, whichever is shorter.

For the reasons set forth in the December 30, 1980 Background Document for the financial requirements, EPA determined that

there should be a maximum pay-in period for closure and post-closure trust funds, and selected 20 years as that period. In establishing the current financial requirements, EPA further limited the pay-in period for permitted facilities to the term of the initial permit so that trust funds would be fully funded when the initial permits expire. However, if the proposed amendment to § 122.9 (duration of permits) is promulgated in final form, and thenceforth EPA issues "lifetime" permits, the maximum trust pay-in period for permitted facilities as determined under the present financial requirements (which allow the period to extend for the permit term) would be extended from a maximum of 10 years to 40 or more years in many cases. As noted above, EPA has determined that 20 years is the maximum allowable pay-in period. Therefore, if the proposed amendment regarding duration of permits is adopted, the Agency proposes that an accompanying amendment to the financial requirements in Part 264 limit the pay-in period for trust funds for permitted facilities to the term of the initial RCRA permit operating life, or 20 years, whichever period is shorter.

The amendment to Part 264 would further provide that if a trust were established during interim status, its pay-in period would not be extended by the awarding of a permit, i.e., for no facility would the pay-in period extend beyond 20 years. The proposed language states that the pay-in period will be as established in the interim status standards, or the term of the initial RCRA permit, whichever period is shorter.

#### State Program Requirements

Conforming amendments to the State Program Requirements in Part 123 are also being proposed as part of today's action. EPA is proposing to provide that States which are authorized to issue RCRA permits may issue those permits effective for the designed operating life of each facility and the post-closure care period.

Part 123 of the May 19, 1980, regulations set forth the criteria under which State governments may obtain authorization to implement the RCRA program in lieu of the Federal government. States may receive "interim" authorization by establishing a regulatory program for hazardous waste management that EPA approves as being "substantially equivalent" to the Federal program.<sup>6</sup> Phase II of interim

<sup>4</sup>The Agency may use information supplied by a third party, such as an interested citizen, to initiate a permit change.

<sup>5</sup>Under the closure plan requirements in §§ 264.112 and 265.112, the expected year of closure must be specified and the plan must be kept current.

<sup>6</sup>For a discussion of State authorization of the RCRA program, see the preamble to 40 CFR Part

authorization includes authorization of States to issue RCRA permits.

EPA established in § 123.129(d) that States applying for Phase II interim authorization must have requirements for permitting that are substantially equivalent to EPA's, including the requirements for the duration of permits in § 122.9. In paragraph (e) of § 123.129, EPA further defines substantial equivalence to the Federal standards for permit duration by requiring that States with Phase II interim authorization not issue RCRA permits that are effective for longer than ten years. The Agency could have adopted a more flexible interpretation of substantial equivalence to the Federal program, but for policy reasons, defined substantial equivalence to the Federal standards for the duration of permits quite narrowly.

As explained earlier in this preamble, EPA is proposing to amend the permitting standards for Federally-issued RCRA permits, including §§ 122.9, 122.15, 264.143 and 265.143. This regulatory action is partially in response to the settlement reached between EPA and the petitioners who raised RCRA-related issues in *NRDC v EPA*, No. 80-1607 and consolidated cases, (D.C. Cir., filed June 2, 1980.) The settlement agreement also stipulates that EPA will propose to revise § 123.129(e) to provide that States with interim authorization may issue permits effective for the designed operating life of each facility. EPA proposes to accomplish this by deleting § 123.129(e) from the regulations. The limit for permit duration would thus be removed.

With the removal of § 123.129(e), States with Phase II interim authorization would not be limited to ten-year permit terms, but under § 123.129(d), they still would be required to establish requirements for permits that are "substantially equivalent" to the provisions listed in § 123.7, including §§ 122.9 and 122.15. For the purpose of State authorization, EPA would consider State requirements similar to either a combination of the current standards under §§ 122.9 and 122.15 or a combination of the proposed standards under those sections to be substantially equivalent to the Federal standards. Currently, § 122.9 limits permit terms to ten years, and 122.15 provides limited opportunities for EPA to reopen permits and make changes to permit conditions. In comparison, the proposed amendment to § 122.9 would provide for "lifetime"

permits, and the proposed amendment to § 122.15 would increase EPA's opportunities for reopening those permits. If today's proposal is promulgated, States applying for Phase II interim authorization could use either approach to establish substantial equivalence to the Federal requirements. Further, States authorized to issue RCRA permits could thereby choose which permitting method is most practical to implement in their particular State.

As set forth in § 122.21(d) of EPA's land disposal regulations, land disposal facilities must have RCRA permits during the period of post-closure care (47 FR 32369, July 26, 1982). Accordingly, in today's proposed amendment to § 122.9, EPA is proposing that the "lifetime" permit cover the post-closure period as well as the designed operating life of land disposal facilities. If today's proposal is promulgated, States which elect to adopt lifetime permits would need to demonstrate to EPA that their permit durations for land disposal facilities cover the post-closure period. States which elect to issue permits to land disposal facilities with a term of ten years or less must demonstrate that their programs provide for the issuance of term permits during the post-closure period.

States receiving final authorization under RCRA must, in accordance with § 123.7(a), establish provisions at least as stringent as those in §§ 122.9 and 122.15. The "Note" in § 123.7(a), as promulgated May 19, 1980, requires that the stringency of each provision be considered separately, and prohibits any "tradeoff" of the degree of stringency between one provision and another. Therefore, if the proposed amendments to § 122.9 and 122.15 are promulgated in final form, and the "Note" remains unchanged, States applying for final authorization would not be required to issue lifetime permits (i.e., States could be more stringent than the Federal program by issuing permits for shorter durations), but they would be required to have the permit reopening abilities specified in § 122.15 (i.e., the State regulations would have to contain causes for reopening permits that are at least as stringent as those causes in § 122.15).

However, the purpose of the aforementioned regulatory change to § 123.129 is to allow States with interim authorization to make a trade-off between the duration of RCRA permits and the State's ability to reopen permits during their terms. EPA believes that States with final authorization should have the same option. Consequently,

EPA is today proposing to amend the Note in § 123.7(a) to clarify that States with final authorization to implement RCRA may have provisions which, in combination, are at least as stringent as a combination of §§ 122.9 and 122.15. If today's proposal is promulgated, States applying for final authorization could adopt an approach similar either to the current standards under §§ 122.9 and 122.15 or to the proposed standards under those sections in order to establish equivalence with Federal standards.<sup>7</sup>

#### Request for Comments

The Agency invites comments on all aspects of these proposed regulations, including all issues raised in the preamble. Several of these proposed amendments to the RCRA permitting system are part of the settlement reached between EPA and the petitioners who raised RCRA-related issues in *NRDC v EPA*, No. 80-1607 and consolidated cases (D.C. Cir., filed June 2, 1980). EPA anticipates that finalization of today's proposal will provide part of the basis for the settlement of this litigation. However, EPA will carefully consider all timely public comments on this proposal before making its final decision.

#### Effective Date

Section 3010(b) of RCRA provides that EPA's hazardous waste regulations and revisions thereto take effect six months after their promulgation. In addition, 5 U.S.C. 553(d) of the Administrative Procedure Act requires that substantive rules not become effective until at least 30 days after promulgation. The purpose of these requirements is to allow persons affected by the rulemaking sufficient lead time to prepare to comply with major new regulatory requirements. However, for the amendments proposed today, the Agency believes that delaying the effective date for any period of time would cause substantial and unnecessary disruption in the implementation of the regulations and would be contrary to the public interest.

These amendments, if promulgated in final form, would allow EPA and authorized States to issue RCRA permits for the designed operating life of each facility, thus relieving owners and operators of hazardous waste management facilities from having to reapply for a RCRA permit every 10

<sup>7</sup>123, in the May 19, 1980, Federal Register (45 FR 33368), and the preamble discussion accompanying the January 26, 1981 amendments to those regulations (46 FR 8298). The State authorization requirements also were amended on July 26, 1982 (47 FR 32373).

<sup>7</sup>It should also be noted that under § 123.37(d) permits issued by States prior to the approval of final authorization may need to be modified after final authorization is granted to ensure that the conditions of the permits comply with RCRA requirements.

years or less. The Agency believes that this is not the type of regulation revision that Congress had in mind when it provided a delay between the promulgation and the effective date of revisions to regulations. Therefore, the Agency plans to make these amendments effective immediately if and when they are promulgated in final form, but requests comments on whether such action would cause hardship for the regulated community or otherwise be inappropriate.

#### Compliance With Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This proposed regulation is not major because it will not result in an effect on the economy of \$100 million or more, nor will it result in an increase in costs or prices to industry. There would be no adverse impact on the ability of U.S.-based enterprises to compete with foreign-based enterprises in domestic or export markets. Because this amendment is not a major regulation, no Regulatory Impact Analysis is being conducted.

These amendments were submitted to the Office of Management and Budget for review as required by Executive Order 12291. Any comments from OMB to EPA and any response to those comments are available for viewing at the Office of Solid Waste docket, Room S-269C, U.S. E.P.A., 401 M St. SW, Washington, D.C. 20460.

#### President's Task Force on Regulatory Relief

The President's Task Force on Regulatory Relief designated the Consolidated Permit Regulations (40 CFR Parts 122-124) for review by EPA. This proposal supports the goals of the Task force by reducing burden on the regulated community. This proposal also fulfills EPA's obligations in the settlement of industry litigation on the Consolidated Permit Regulations. In addition to settling the litigation, the Agency also plans to:

- Propose other substantive changes to further streamline the Agency's permitting process, and
- Deconsolidate the regulations to make them more easily usable by the public.

As a result of deconsolidation, there will be some reorganization of the regulations. Thus, this proposed amendment may be finalized in a different format and location than it appears in the current regulations and the settlement agreement.

#### Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, Federal agencies must prepare a regulatory flexibility analysis for all proposed rules to assess their impact on small entities. No regulatory flexibility analysis is required, however, where the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities.

The economic impact of this regulation would be to reduce the costs of complying with EPA's hazardous waste management regulations for owners and operators of hazardous waste management facilities (including those which are small entities). Accordingly, I hereby certify, pursuant to 5 U.S.C. 601(b), that this proposed rule would not have a significant economic impact on a substantial number of small entities.

#### List of Subjects

##### 40 CFR Part 122

Administrative practice and procedure, Air pollution control, Confidential business information, Hazardous materials, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply.

##### 40 CFR Part 123

Confidential business information, Hazardous materials, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Waste treatment and disposal, Water pollution control, Water supply.

##### 40 CFR Part 264

Hazardous materials, Insurance, packaging and containers, Reporting and recordkeeping requirements, Security measures, Surety bonds, Waste treatment and disposal.

Dated: January 28, 1983.

Anne M. Gorsuch,  
Administrator.

It is proposed that Title 40 of the Code of Federal Regulations be amended as follows:

#### PART 122—EPA ADMINISTERED PERMIT PROGRAMS: THE HAZARDOUS WASTE PERMIT PROGRAM

1. The authority citation for Part 122 reads as follows:

Authority: Resource Conservation and Recovery Act, as amended, (RCRA), 42 U.S.C. 6901 *et seq.*; Safe Drinking Water Act, 42 U.S.C. 300f *et seq.*; Clean Water Act, 33

U.S.C. 1251 *et seq.*; Clean Air Act, 42 U.S.C. 1857 *et seq.*

2. Section 122.9 is amended by revising paragraphs (b) and (e) to read as follows:

##### § 122.9 Duration of permits.

(b) RCRA. Except as provided in paragraph (e) of this section and § 122.30, RCRA permits shall be effective for the fixed term of the designed operating life of the facility (in the case of a new facility) or the remainder of the designed operating life of the facility (in the case of an existing facility). For land disposal facilities, the term of RCRA permits shall include the post-closure care period or compliance period, whichever is longer, in addition to the designed operating life of the facility. The designed operating life of the facility is the period of time, estimated by the owner or operator and approved by EPA, for which the facility is designed to operate, and during which operation is expected to continue. The estimate should reflect consideration of the construction materials of the facility, the volume and type of waste the facility expects to handle, and the processes the facility will employ.

(e) The Regional Administrator may issue any NPDES, UIC or 404 permit for a duration that is less than the full allowable term under this section; for RCRA permits only, the Regional Administrator may issue a permit for a duration that is less than the full allowable term under this section only when the permit applicant so requests.

3. Section 122.15 is amended in paragraph (a)(3) by revising the introductory text and paragraph (a)(3)(i)(A) and adding paragraph (a)(7)(ix) to read as follows:

##### § 122.15 Modification or revocation and reissuance of permits.

(a) \* \* \*

(3) *New Regulations.* The standards or regulations on which the permit was based have been changed by promulgation of new or amended standards or regulations or by judicial decision after the permit was issued. Permits for RCRA facilities and UIC Class II or III wells may be modified during their terms for this cause without following the conditions of paragraphs (a)(3)(i) and (ii) of this section. All other permits may be modified for this cause only as follows:

(i) For promulgation of amended standards or regulations, when:

(A) The permit condition requested to be modified was based on a



promulgated Part 146 (UIC) regulation, or a promulgated effluent limitation guideline or EPA approved or promulgated water quality standard (NPDES); and

\* \* \*

(7) For RCRA only, the Director may modify a permit:

\* \* \*

(ix) When the permit fails to include any applicable requirement under RCRA which is in effect prior to the date of permit issuance.

## PART 123—STATE PROGRAM REQUIREMENTS

1. The authority citation for Part 123 reads as follows:

**Authority:** Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6901 *et seq.*; Safe Drinking Water Act, 42 U.S.C. 300f *et seq.*; Clean Water Act, 33 U.S.C. 1251 *et seq.*

2. Section 123.7 is amended by revising the note following paragraph (a) to read as follows:

### § 123.7 Requirements for permitting.

(a) \* \* \*

**Note.**—States need not implement provisions identical to the above listed provisions or the provisions listed in §§ 123.7(b)-(d). Implemented provisions must, however, establish requirements at least as stringent as the corresponding listed provisions. While States may impose more stringent requirements, they may not make one requirement more lenient as a tradeoff for making another requirement more stringent; for example, by requiring that public hearings be held prior to issuing any permit while reducing the amount of advance notice of such a hearing. However, for provisions (5) and (10), a tradeoff may be made between the duration of RCRA permits and the ability of States to reopen RCRA permits during their terms if the combined regulatory effect of the two provisions is equivalent to that of Federal program.

State programs may, if they have adequate legal authority, implement any of the provisions of Parts 122 and 124. See for example, § 122.5(d) (continuation of permits) and § 124.4 (consolidation of permit processing).

\* \* \*

### § 123.129 [Amended]

3. In § 123.129, paragraph (e) is removed.

## PART 264—STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE MANAGEMENT FACILITIES

1. The authority citation for Part 264 reads as follows:

**Authority:** Sec. 1006, 2002, and 3004, of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of

1976, as amended, 42 U.S.C. 6905, 6912(a) and 6924.

2. Section 264.143 is amended by revising paragraph (a)(3) to read as follows:

### § 264.143 Financial assurance for closure.

(a) \* \* \*

(3) Payments into the trust fund must be made annually by the owner or operator until the value of the trust fund equals the current closure cost estimate. The period over which annual payments are required is hereafter referred to as the "pay-in period." The payments into the trust fund must be made as follows:

(i) For a new facility, the pay-in period is the term of the initial RCRA permit, or the remaining operating life of the facility as estimated in the closure plan, or 20 years beginning with the effective date of the permit, whichever period is shorter. The first payment must be made before the initial receipt of hazardous waste at the facility for treatment, storage, or disposal. A receipt from the trustee for this payment must be submitted by the owner or operator to the Regional Administrator before this initial receipt of hazardous waste. The first payment must be at least equal to the current closure cost estimate, except as provided in § 264.143(g), divided by the number of years in the pay-in period. Subsequent payments must be made no later than 30 days after each anniversary date of the first payment. The amount of each subsequent payment must be determined by this formula:

$$\text{Next payment} = \frac{\text{CE}-\text{CV}}{Y}$$

Where CE is the current closure cost estimate, CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period.

(ii) For existing facilities, if an owner or operator establishes a trust fund as specified in § 265.143(a) of this chapter, and the value of that trust fund is less than the current closure cost estimate when a permit is awarded for the facility, the amount of the current closure cost estimate still to be paid into the trust fund must be paid over the time remaining in the pay-in period as established under § 265.143(a)(3), or the term of the initial RCRA permit, whichever period is shorter. Payments must continue to be made no later than 30 days after each anniversary date of the first payment made pursuant to Part 265 of this chapter. The amount of each payment must be determined by this formula:

$$\text{Next payment} = \frac{\text{CE}-\text{CV}}{Y}$$

where CE is the current closure cost estimate, CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period.

\* \* \*

3. Section 264.145 is amended by revising paragraph (a)(3) to read as follows:

### § 264.145 Financial assurance for post-closure care.

(a) \* \* \*

(3) Payments into the trust fund must be made annually by the owner or operator until the value of the trust fund equals the current post-closure cost estimate. The period over which annual payments are required is hereafter referred to as the "pay-in period." the payments into the trust fund must be made as follows:

(i) For a new facility, the pay-period is the term of the initial RCRA permit, or the remaining operating life of the facility as estimated in the closure plan, or 20 years beginning with the effective date of the permit, whichever period is shorter. The first payment must be made before the initial receipt of hazardous waste at the facility for disposal. A receipt from the trustee for this payment must be submitted by the owner or operator to the Regional Administrator before this initial receipt of hazardous waste. The first payment must be at least equal to the current post-closure cost estimate, except as provided in § 264.145(g), divided by the number of years in the pay-in period. Subsequent payments must be made no later than 30 days after each anniversary date of the first payment. The amount of each subsequent payment must be determined by this formula:

$$\text{Next payment} = \frac{\text{CE}-\text{CV}}{Y}$$

where CE is the current post-closure cost estimate, CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period.

(ii) For existing facilities, if an owner or operator establishes a trust fund as specified in § 265.145(a) of this chapter, and the value of that trust fund is less than the current post-closure cost estimate when a permit is awarded for the facility, the amount of the current post-closure cost estimate still to be paid into the trust fund must be paid over the time remaining in the pay-in period as established under § 265.145(a)(3), or the term of the initial RCRA permit, whichever period is shorter. Payments must continue to be made no later than 30 days after each

anniversary date of the first payment made pursuant to Part 265 of this chapter. The amount of each payment must be determined by this formula:

$$\text{Next payment} = \frac{\text{CE} - \text{CV}}{\text{Y}}$$

where CE is the current post-closure cost estimate, CV is the current value of the trust fund, and Y is the number of years remaining in the pay-in period.

\* \* \* \* \*

[FR Doc. 83-3204 Filed 2-7-83; 8:45 am]

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Monday	Tuesday	Wednesday	Thursday	Friday
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